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brief 32

Who's Minding the Store?

The Business of Private, Public and Civil Actors in Zones of Conflict

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Nigeria Okrika oil pipelines between the pumping station and the refinery of the Nigerian National Petroleum Corporation NNPC

BONN INTERNATIONAL CENTER FOR CONVERSION • INTERNATIONALES KONVERSIONSZENTRUM BONN

brief 32

Who's Minding the Store?

The Business of Private, Public and Civil Actors in Zones of Conflict

Volker Böge, Christopher Fitzpatrick, Willem Jaspers and Wolf-Christian Paes

Preface

Business has a role to play in zones of conflict. This goes beyond the simple division between corporations as either 'Merchants of Death' or 'Angels of Peace'—both referring to the effect of business operations on conflict dynamics—to also include business as an object of political and public scrutiny, and as a political actor in its own right. What has become clear is that neutrality is no longer an option, and that business' ancient claims to neutrality were mistaken. Companies are trying to come to terms with this idea, but at the same time their answers remain either very general or too specific and therefore uncoordinated. These answers are often grouped around the concept of 'Corporate Social Responsibility' (CSR).

But CSR is a 'catch-all' term. It can include anything from environmental measures to labor standards, and although this is all highly relevant, there is too little attention for the **specificity** of business and conflict. With this *brief*, we hope to aid the discussion by on the one hand providing an overview of the state of the art, and on the other hand identifying difficulties and caveats ahead. We take the position that although numerous codes of conduct, guidelines, principles, etc. have come into existence over the last few years—culminating into a discussion between those who call for mandatory principles (usually activists/NGOs, 'local stakeholders') and those calling for 'voluntary principles' (usually from the business community)—attention should be drawn to the concept of **co-regulation** ("mixing voluntary membership and mandatory compliance" Billon, 2003, p.220); including all relevant parties (usually international organizations, governments, industry and NGOs). The question is not just what business itself can do, but also what the role of these 'relevant parties' should be. Co-regulation involves cooperation. But how far should, for instance, the cooperation between a company and a non-governmental organization go, and what forms can such a relationship take? Besides cooperation, 'Naming and Shaming' is potentially a very powerful policy instrument. It should, however, be handled with care because although it might be very effective with large companies and governments, 'rogue' operators might not be interested in upholding their reputation. Another finding of BICC is that, contrary to what some observers believe, antagonism between NGOs and 'business' in general is still very much alive.

This *brief* presents some of the findings of a multi-year research project into the role of external economic actors in zones of conflict, which was generously supported by the German Peace Research Foundation (*Deutsche Stiftung Friedensforschung*) from 2003–2005. It also is the first in a series of reports to be published in cooperation with *Fatal Transactions* (www.fataltransactions.org), a European coalition of research institutes and advocacy groups working on the links between the exploitation of natural resources and violent conflict.

Peter J. Croll
Director

Zusammenfassung

German Summary

In den gegenwärtig in den Krisenregionen des Südens ausgetragenen internen Kriegen und Gewaltkonflikten spielt der privatwirtschaftliche Sektor eine große Rolle. Privatwirtschaftliche Aktivitäten tragen sowohl zur Verursachung von Konflikten und Kriegen als auch zur Finanzierung und anderweitigen Unterstützung von Konfliktparteien bei. Insbesondere der Zugang zu und die Ausbeutung von natürlichen Ressourcen wie Diamanten, Gold und Kupfer, Erdöl oder Tropenholz sind in diesem Zusammenhang zu nennen; einige Beobachter sprechen deswegen von "Ressourcenkriegen" als einem neuen Kriegstyp.

Gleichzeitig weisen internationale Organisationen, staatliche Entwicklungsagenturen und Nichtregierungsorganisationen (NGO) darauf hin, dass gerade auch die Privatwirtschaft Mitverantwortung für Krisenprävention, Konfliktmanagement und Friedenskonsolidierung übernehmen sollte. Privatwirtschaftliche Akteure können einen spezifischen Beitrag leisten und damit die entsprechenden Bemühungen staatlicher, internationaler und zivilgesellschaftlicher Institutionen ergänzen. Eine solche korporative soziale Verantwortung (*corporate social responsibility)* umfasste nicht nur die Mitverantwortung für die Vermeidung von Gewaltkonflikten und gewaltfreien Konfliktaustrag sondern auch die Stabilisierung friedlicher und gerechter gesellschaftlicher Verhältnisse.

Im vorliegenden *BICC brief* wird ein Überblick über beide Dimensionen des Verhältnisses von Privatwirtschaft und Gewaltkonflikt gegeben. Zum einen wird aufgezeigt, in welcher Weise privatwirtschaftliche Akteure in gewaltsame Konflikte involviert sind. Zum anderen werden verschiedene Ansätze vorgestellt, die darauf abzielen, das Gewaltkonflikte nährende Potenzial privatwirtschaftlicher Aktivitäten einzuhegen und gleichzeitig die Privatwirtschaft für Krisenprävention und Friedensbildung in die Pflicht zu nehmen.

Die Darstellung konzentriert sich dabei auf multinationale Unternehmen (MNU) aus dem Bereich der extraktiven Industrien (Bergbau, Erdöl und Erdgas). Denn einerseits ist die akademische und politische Debatte über die besondere Rolle und Verantwortung von MNU am weitesten gediehen. Andererseits ist die Bedeutung extraktiver Industrien für Gewaltentstehung und -verstetigung in zahlreichen aktuellen Gewaltkonflikten belegt. Es wird aufgezeigt,

- in welcher Weise extraktive Industrien – etwa durch Umweltzerstörung, unsensible Einstellungs- und Personalpolitik, unangemessene Kompensationsmaßnahmen oder verfehlte Sicherheitsvorkehrungen – zur Verursachung von Gewalt beitragen;
- wie sie in bereits bestehende Konflikte – etwa zwischen Zentralregierung und lokaler Bevölkerung oder innerhalb ihrer konkurrierenden Gruppen – einbezogen werden und diese verschärfen;
- und wie sie schließlich über die Finanzierung von Konfliktparteien zur Verlängerung von Gewaltkonflikten beitragen.

Es wird offenbar, dass MNU in einem konfliktiven gesellschaftlichen Umfeld nicht "neutral" bleiben und sich auf ihre "bloße" Geschäftstätigkeit beschränken können. Vielmehr sind sie vor Eskalation eines Gewaltkonfliktes, während des Konflikts und nach seiner Beendigung in spezifischer Weise einbezogen. Gleichzeitig können sie eigene Beiträge für Prävention, Milderung und Management sowie Überwindung der Folgen leisten. Gleichwohlzeigt sich, dass selbst gut gemeinte Initiativen, etwa Projekte zur lokalen Entwicklung unbeabsichtigte konfliktverschärfende Folgen haben können, z.B. wenn sie einzelne Gruppen der lokalen Bevölkerung gegenüber anderen Gruppen bevorzugen (oder auch nur scheinbar begünstigen). Und auch "nur" der Sicherheit des eigenen Personals und der eigenen Anlagen dienende Maßnahmen, wie etwa die Inanspruchnahme privater Sicherheitsdienste oder der staatlichen Sicherheitskräfte, kann zur konfliktiven Verstrickung führen, wenn diese die Menschenrechte der lokalen Bevölkerung verletzen.

Mittlerweile gibt es eine ganze Reihe von konfliktrelevanten allgemeinen, branchen- und unternehmensspezifischen Verhaltenskodizes, Leitlinien und Prinzipienerklärungen, die sich auf Menschenrechte und Sicherheit, Finanzierung, Regierungsgewalt (*governance)* und Transparenz sowie den Umgang mit besonders konfliktsensiblen Ressourcen beziehen. Die wichtigsten dieser Instrumente – unter anderem der *Global Compact* der Vereinten Nationen, die OECD-Leitlinien für Multinationale Unternehmen, die *UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights,* die *Voluntary Principles on Security and Human Rights,* die *Extractive Industries Transparency Initiative* und das *Kimberley Process Certification Scheme* – werden vorgestellt und in ihrer Bedeutung für konfliktsensibles Unternehmensverhalten bewertet. Auch wenn die Mehrzahl dieser Instrumente nicht direkt

Krisenprävention und Friedensbildung zum Ziel haben, so sind doch – etwa vermittelt über die Einhaltung von Menschenrechten und Umweltstandards – entsprechende indirekte Effekte zu erwarten. Dennoch besteht die Notwendigkeit, auch explizit konfliktbezogene Instrumente zu schaffen bzw. bereits bestehende Instrumente um diese Dimension zu erweitern, um konflikteskalierendes Unternehmensverhalten einzudämmen und Möglichkeiten positiver Einflussnahme auf (Prä- und Post-) Konfliktlagen optimal auszuschöpfen. Zudem sind die gegenwärtigen Möglichkeiten der Kontrolle und der Umsetzung von Verhaltenskodizes, Leitlinien usw. augenscheinlich zu schwach. Problematisiert wird in diesem Zusammenhang deren freiwilliger, selbstregulierender Charakter. Er wird von der Privatwirtschaft ebenso vehement verteidigt wie er aus Kreisen der Zivilgesellschaft kritisiert wird. Letztere streben rechtsverbindliche Regelungen an, die wiederum die Privatwirtschaft großteils ablehnt.

Vorgeschlagen wird, die festgefahrene Debatte um "Regulierung contra Selbstregulierung" durch ein Konzept der "Koregulierung" abzulösen. Hierfür können etwa die *Financial Action Task Force on Money Laundering* und insbesondere das *Kimberley Process Certification Scheme* für "Konfliktdiamanten" wertvolle Anregungen geben. Im *Kimberley Process* wirken internationale Organisationen, Regierungen, Privatwirtschaft und NGO mit dem Ziel zusammen, über einen effektiven Zertifizierungsmechanismus den Handel mit "Konfliktdiamanten" zu verhindern. Auch wenn sich dieses Modell nicht ohne weiteres auf andere natürliche Ressourcen übertragen lässt, kann es doch – etwa für den Bereich von "Konflikt-Tropenholz" – Denkanstöße geben. Es gibt bereits einen internationalen Zertifizierungsmechanismus für Holzbewirtschaftung (*Forest Stewardship Council Certification*), der um die Dimension "Konfliktsensibilität" erweitert werden müsste.

Darüber hinaus ist aber weiterhin notwendig, Konfliktparteien und unverantwortliche Unternehmen, die von Gewaltkonflikten profitieren (wollen) mittels ausdifferenzierter und zielgenauer Sanktionen an der Eskalation und Verlängerung von Konflikten und Kriegen zu hindern und sie im besten Falle zur Rückkehr zu normenkonformem Verhalten zu zwingen.

Neben den "harten" Sanktionen hat sich auch die "weiche" Einflussnahme von NGOs als bedeutsam für konfliktsensibles Unternehmensverhalten erwiesen. Dass sich die Privatwirtschaft zusehends bereit findet, über korporative soziale Verantwortung zu reden, sich eigene Verhaltenskodizes zu geben und Instrumenten wie dem *Global Compact* anzuschließen, ist nicht zuletzt auf den Druck der Zivilgesellschaft zurückzuführen. MNU haben sich als durchaus empfindlich gegenüber Kampagnen erwiesen, die auf *naming and shaming* abzielen und ihrer Reputation schädlich waren. Allerdings setzen NGOs heutzutage die Privatwirtschaft nicht mehr nur mit ihren Enthüllungen unter Druck. Vielmehr agieren sie oft auch als Vermittler oder gar Berater. Die Analyse dieser verschiedenen Rollen erweist, dass sich im Laufe der Zeit das Verhältnis zwischen NGO und Wirtschaftswelt von starrer Konfrontation zu einem differenzierteren abwechselnd konfrontativen wie kooperativen Miteinander gewandelt hat. Davon kann auch das Themenfeld "Privatwirtschaft und Konflikt" profitieren.

Der BICC *brief* schließt mit einer knappen Bilanz der Fortschritte und Defizite der bisherigen politischen und wissenschaftlichen Debatte zum Thema. Ausgesprochen werden knappe Empfehlungen für Unternehmen, internationale Organisationen und die deutsche Bundesregierung sowie ihre entwicklungspolitischen Institutionen. Besonders vermerkt wird die Notwendigkeit, sich stärker als bisher dem konkreten Unternehmensverhalten am jeweiligen Ort des Konfliktgeschehens sowie der Finanzierung konfliktträchtiger Projekte zuzuwenden, das Konzept der "Koregulierung" fortzuentwickeln und das UN-System verstärkt als Forum für Lernprozesse, Dialog und Netzwerkbildung zu nutzen.

Mehrere Boxes stellen zum einen einige besonders prominente Fälle konfliktrelevanten Unternehmensverhaltens dar, z.B. die Rolle Shells im nigerianischen Niger-Delta, und präsentieren zum anderen erfolgversprechende Lösungsansätze, z.B. das Tschad-Kamerun-Pipelineprojekt.

Summary

In the context of the discourse on 'new wars', in which economic motives and agendas are of major importance, increasing attention is being focused on the role of the private business sector in contemporary violent conflicts and wars. Private business can contribute both to the outbreak of violent conflict and to the prolongation of war, be it because private business provides the revenues for the fighting parties or because business interests are directly linked to upholding violent conflict. Access to and exploitation of natural resources such as diamonds, gold, copper, oil and tropical timber are particularly conflict-relevant issues; hence some observers even speak of 'resource wars' as a new type of conflict.

On the other hand researchers, politicians and civil society organizations contend that the private business sector has to be included in efforts towards crisis prevention, conflict management, termination of conflict and post-conflict peacebuilding. Private business can enhance the respective endeavors of states, international organizations and civil society. Corporate social responsibility has to address issues of conflict prevention, non-violent conduct of conflict, and the stabilization of peaceful and just societies.

This BICC *brief* gives an overview of both dimensions of the business and conflict linkage. First it elaborates on the various ways in which private business is involved in violent conflict. In a second step, a number of approaches are presented that aim at containing the conflict potential inherent in private business activities and at the inclusion of the private business sector in conflict prevention and peacebuilding.

The focus is on multinational enterprises (MNEs) of the extractive industries (oil, gas, and mining). The academic and political debate on the responsibilities of MNEs is the most advanced, while the importance of the extractive industries sector with regard to the causation and prolongation of numerous contemporary conflicts is obvious. It is shown:

- How extractives industries contribute to the causes of violence, e.g. through environmental degradation, exclusive hiring policies, and inadequate compensation or flawed security arrangements

- How MNEs become entangled in already existing conflicts and contribute to their escalation, e.g. conflicts between the central government and the local population or between different groups of the local populace

- How extractive MNEs provide conflict parties with the revenues they depend on for waging war.

Companies operating in zones of conflict cannot—despite all assertions to the contrary—be 'neutral'. By the mere fact that they are doing business in conflict zones they are automatically and inevitably involved in politics. They are in fact involved in specific ways before conflict, during conflict and post-conflict; similarly they can make specific contributions to prevention before, management during and reconstruction after conflict. Nevertheless, even well-intended measures can backfire, e.g. community development projects which only address subgroups of the local populace. The most serious mistakes made, however, concern security measures. If security is provided for company assets and personnel by security forces of the host state who are party to a conflict, this is inevitably perceived as the company siding with the government and its forces. Human rights violations committed by the security forces will then also be attributed to the company. Similar problems arise if private security firms with a negative record *vis-à-vis* human rights and conflict-sensitive behavior are hired to provide protection for facilities and staff.

Over the last years, several codes of conduct, guidelines and general principles guiding corporate behavior towards human rights and security, financing, governance and transparency, and conflict commodities have been elaborated and adopted. The most important of these initiatives are presented in this *brief* and assessed with regard to their relevance to conflict-sensitive business practices. These include, among others, the United Nations Global Compact; the OECD Guidelines for Multinational Enterprises; the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights; the Voluntary Principles on Security and Human Rights; the Extractive Industries Transparency Initiative; and the Kimberley Process Certification Scheme. Although most of those initiatives do not aim directly at conflict prevention and peacebuilding, respective effects will eventuate indirectly, e.g. through adherence to human rights and environmental standards. In addition, however, it is necessary to develop new instruments that are directly relevant to conflict-sensitive business practices, or to add that dimension to already existing instruments. Furthermore, current mechanisms for monitoring, auditing, verification and enforcement obviously remain too weak. In this context the voluntary, self-regulating character of codes, guidelines, and so on, is questionable. Advocates of self-regulation from the business community insist on a voluntary approach, whereas critics of voluntary measures from civil society favor a mandatory approach and demand legally binding regulation. This demand, however, is widely rejected by the private business sector.

This *brief* proposes transcending the sterile 'voluntary (self-regulation) versus mandatory (regulation)' debate by

means of a concept of 'co-regulation'. The Financial Action Task Force on Money Laundering and the Kimberley Process Certification Scheme (KPCS) provide valuable insights for such an approach of co-regulation. The KPCS is the result of a rare instance—and probably the first successful one—of cooperation between international organizations, governments, industry and non-governmental organizations (NGOs). The scheme aims at the prohibition of trade in 'conflict diamonds'; gems can only be traded when accompanied by a certificate stating that the diamonds do not come from a conflict source. This model is not easily applicable to other conflict commodities, but respective options have to be thoroughly evaluated, e.g. with regard to 'conflict timber' as there already exists a certification scheme for forest management (Forest Stewardship Council Certification). This scheme could be expanded, incorporating the criteria of conflict sensitivity as well.

Even if co-regulation is a promising approach, targeted sanctions aimed at conflict parties and rogue companies that (try to) profit from violent conflicts still remain necessary. Such 'spoilers' have to be prevented from escalating and prolonging conflicts and must be forced to abide by international norms and law.

In addition to the 'hard' means of sanctions, the 'soft' means of NGO activism has proven to be of growing importance for conflict-sensitive business practices. The fact that the private business sector is ever more willing to discuss corporate social responsibility, to develop self-regulating codes of conduct, and to join initiatives such as the UN Global Compact has a lot to do with the pressure put on companies by civil society stakeholders. MNEs were, and are, confronted with 'naming and shaming' campaigns that can impose considerable 'reputational costs'. NGOs play various different roles in relationship to the business sector, among them those of activist, watchdog, researcher, facilitator and consultant. The analysis of these roles leads to the conclusion that, over time, the relationship between NGOs and business has developed from being merely confrontational to complex confrontative-collaborative interplay. This opens up opportunities for new approaches in the field of 'business in conflict'.

A brief assessment of the achievements and shortcomings of the political and academic debate on 'business in conflict' and selected recommendations for companies, international organizations and the German government and its development agencies conclude this BICC *brief*. The necessity of focusing on the concrete behavior of companies on the ground in conflict(-prone) regions and on the financing of business projects in those regions, the need to elaborate the concept of 'co-regulation' further, and the chance of making intensified use of the UN system as an arena for dialogue, learning and networking are highlighted in particular.

Several boxes present some (in)famous cases of 'business in conflict'—e.g. Shell's role in the Niger Delta of Nigeria—alongside some promising cases of conflict-sensitive business behavior, e.g. the Chad-Cameroon Pipeline Project.

Private Business and Conflict: An Overview of Issues and Problems

Introduction

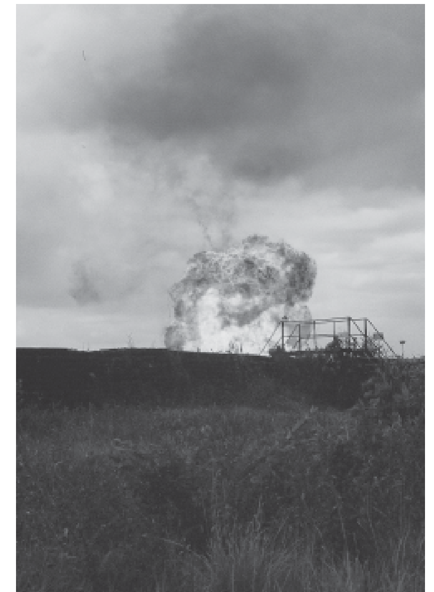
Most of today's wars are internal violent conflicts, fought in the southern hemisphere between governments and opposing rebel and/ or secessionist groups. Since the end of the Cold War, and in the context of intensified globalization, some strikingly new features of these violent conflicts have attracted considerable attention. Some observers are even speaking of 'new wars' (Kaldor, 1999; Duffield, 2001; Münkler, 2002). And it is widely agreed that a decisive aspect of these 'new wars' is the increased role that economic factors play, be it as a cause of war or as a prerequisite for sustaining warfare. Whereas, in Cold War-times, warring parties in the South—governments as well as armed opposition groups—could often rely on subsidies provided by either the East or the West, nowadays the warring sides have to look for other sources to maintain their fighting capabilities. Contemporary violent conflicts have to be—and indeed are—ever more self-financing. This is why the actors embroiled in the conflict compete over access to, or control of, valuable natural resources that can be traded on regional or international markets.[1] Access to the global economy is a prerequisite for sustaining local war economies which are hardly ever autarkic. Because of that, close linkages between local conflict actors and external economic actors have developed. On the other hand, war economies are sustained because conflict actors can make profits on the world market by selling resources of which they are in control because of their capabilities to exert violence and wage war.

Hence a dual relationship between resources and war can be observed: resources financing conflict and/or resources motivating conflict (Billon, 2001, p. 561). In order to fight war, conflict actors require local resources that they can trade on the world market: resources as a means, war fighting capability as an end; and war is fought because it allows conflict actors to exploit local resources and trade them on the world market, making profits and becoming rich: war as a means, resources as an end.[2]

In actual fact, the motivation for fighting is often multifaceted—and subject to change. It may be political (e.g. fighting for regime change or secession); in this case the commodification of resources is used as a means to make the violent conduct of conflict feasible; it may be economic; then the commodification of resources is an end in itself, motivating the violent conduct of conflict. Often a mix of motives can be found, or a change over time: from (more) political to (more) economical (cf. Ballentine and Nitzschke, 2004a). "Combatant self-financing may lead to a mutation in the character and duration of conflict, as economic considerations, while not the sole or even primary cause of conflict, become more important to some combatants than political factors" (International Peace Academy, 2003, p. 6).

It is against this background of powerful economic motivation and agendas in contemporary violent conflicts that the private business sector plays a significant and ever-growing role. Private business is inherently linked to contemporary violent conflict. It can contribute to the outbreak of violent conflict or it can contribute to the prolongation of war, be it because private business provides the revenues for the parties engaging in the fighting or be it that business interests are directly linked to upholding violent conflict. There are certain business actors who profit from the instability and lawlessness that go along with 'new wars'.

On the other hand, war has considerable detrimental effects on the large majority of the business community on account of a number of factors: the destruction and devastation caused by the war, the loss of life, the negative impact on infrastructure, and the unstable law-and-order situation which is detrimental to investment and doing business.



Gas flare near oil operations, Niger Delta, Nigeria.

Because of the evident linkages between private business and contemporary violent conflicts, and because the private sector has taken on a more visible and important role in the international community in general, the issue of 'business and conflict' has come to the fore of development policies as well as foreign policy and security policy. Nowadays it is common wisdom that the private business sector has to be included in efforts aimed at crisis prevention, conflict management, termination of conflict, and post-conflict peacebuilding. Business can have either negative or positive impacts in violent conflicts in that it can contribute both to conflict escalation and to crisis prevention, conflict resolution and peacebuilding.

Hence the business world has a twofold responsibility. First, it has the responsibility to 'do-no-harm', that is, to avoid any activities and behavior that might incite violent conflict, contribute to an escalation of conflict, or trigger a return to violent conflict in fragile post-conflict situations. Second, business must also adopt a 'pro-active' responsibility, fostering activities and behavior that contribute to conflict prevention in situations of crisis, to the mitigation of conflict and its effects in wartime, and to the stabilization of peace in post-conflict situations.

Business does not only have the option of playing a role in conflict prevention—it also has the *obligation* to play that role. This is beyond doubt in respect to the first type of responsibility: to do no harm. In general this boils down to abiding by the law (compliance), and adhering to both the most fundamental standards of business practice and internationally accepted values with respect to industrial relations, relations with business partners and customers, environmental protection, and human rights. But also in respect to the second responsibility—that of engaging in pro-active conflict prevention—one could argue that this is at least an ethical obligation if one takes talk of 'good citizenship' and the 'corporate social responsibility' (CSR) of private business enterprises seriously. If one does so, the obligations of any given company go well beyond the realm of producing goods and services and making profits (in a law-abiding manner): a company also has to contribute to the wellbeing, security and peace of the society in which it is embedded. And this means that—if need be—a company also has certain conflict-preventive obligations, in the same way as it has obligations with regard to its workforce, its customers, the state, the general public, and the environment. "Business, although primarily an economic player, does not operate in a political, social or moral vacuum. Profits, although the primary lifeblood of business, are rarely sustainable over the long term without a sense of purpose and values. Business leaders . . . cannot ignore the impact of their companies' activities on the creation or destruction of broader societal value. Within this context, individual business leaders, their companies and business associations can play a crucial role in helping to promote economic growth, social justice, environmental sustainability and peace in the countries and communities in which they operate and at the global level" (Nelson, 2002, p. 315).

However, it seems that for business enterprises this is often difficult to comprehend. They are profit-driven, and they are keen to reduce costs. At first sight, engagement in conflict prevention and peacebuilding often does impose costs (which weigh even heavier if and when competitors do not engage in conflict prevention and hence gain a competitive advantage) whereas the achievements of such an engagement are difficult to value in terms of money. The profit-seeking character of private business makes it more reasonable to circumvent social responsibility than to actively participate in conflict prevention and resolution—at least in the short term. Hence one can anticipate a lengthy public debate on conflict-related CSR, involving stakeholders from all walks of life—the state, trade unions, NGOs, international organizations, business councils, academia—discussing how private business could be convinced (and if need be: compelled) to realize that short-sighted profit-orientation is not acceptable to societies and the international community and that measures have to be taken that provide for conflict-sensitive business activities (along with what kind of measures these might be). This debate has actually already begun, and this paper will try—in part, at least—to give an overview of some of the preliminary results.

Focus on multinational enterprises and the extractive industries sector

Of course, it is important to differentiate within 'the' business sector when it comes to issues of 'business and conflict' and the conflict-sensitive behavior of private businesses. The private business sector is made up of diverse groups of actors. Local businesses, small and medium-sized enterprises (SMEs), national companies and multinational enterprises (MNEs) play differing roles. SMEs which are situated in a given crisis or conflict region, have a stance with regard to the crisis or conflict that differs considerably from that of multinational enterprises (MNEs) which run projects in the region of crisis or conflict but have their headquarters in an OECD country. Locally bound, SMEs are affected by violent conflict in a different way from MNEs and, because of their local embeddedness, may also develop different coping strategies. Furthermore, not only their interests but also their means of influence with regard to the prevention and/or termination of violent conflict and the stabilization of post-conflict situations differ from those of MNEs.[3]

One must not forget that some private business actors actually stand to profit from instability, violence and war and are therefore not interested in conflict prevention, conflict termination and post-conflict stabilization at all. When

states fail or collapse, some companies deliberately try to take advantage of the situation or at least do not hesitate to adjust to such conditions without ethical scruples as they see a chance of making extraordinary profits. "Internal anarchy gives opportunities to some firms that are more adept than their competition at managing risk for commercial advantage" (Reno, 2001, p. 206). Large sectors of organized crime and actors from the sphere of 'shadow economies' can conduct tremendously profitable business deals in the context of war economies. Drug trafficking, smuggling, the arms trade and trafficking in women and children are cases in point. The leaders of armed groups who are at the same time 'entrepreneurs in violence'—such as warlords and the strongmen of organized crime—are in no way open to well-intentioned proposals for conflict-sensitive business behavior: they are spoilers; nor are rogue companies "that do business under cover of conflict and in some cases actively supply combatants" (Ballentine and Nitzschke, 2004b, p. 39). Such companies intentionally break the law and shy away from any kind of publicity; in other words, they are spoilers, too. The same is the case with "the numerous national and foreign middlemen and brokers that specialize in the high-risk, high-profit business environments of civil wars" (Ballentine and Nitzschke, 2004b, p. 45). Corporate behavior in the eastern parts of the Democratic Republic of Congo (DRC) provides a striking example. The 'UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo' identified over 80 corporations from OECD countries that exploited natural resources during the war (however, none of the major extractive MNEs were among those). Some of them even allowed forced labor to be used or facilitated the transfer of weapons to warring groups. Spoilers and war profiteers of this kind have to be subjected to robust law enforcement in the first place.

Pleas for conflict-sensitive business practices[4] should, however, be addressed to those national companies and SMEs from conflict-prone or conflict-ridden countries that are dependent on a stable and peaceful environment for conducting business, and especially to MNEs from OECD countries. Although their business activities frequently have negative effects on conflict dynamics, these are usually unintentional.[5] Therefore one could try to convince this group of companies to improve their business practices.

It stands to reason that the MNEs from developed countries are in a special position because of their capital, technology, investment capabilities and their economic and financial (also political) importance. Often they represent a decisive link between the theatres of conflict in the South and the global market. That new or resource wars in the conflict regions of the South are not only of a local or regional character but are transnational or even global in their scope and implications is due not least to the involvement of such MNEs which provide the connections between the theatres of conflict and the global sphere or marketplace.

Up to now the business-in-conflict discourse has focussed primarily on MNEs. This holds true not only for research, but also for civil society, international organizations and the political institutions of donor states. There are a number of good reasons for this. First it is assumed that MNEs are in a position to exert special influence on violent conflicts, both in a negative way—as in causing and financing violent conflict, either directly or indirectly—and positively—as actors who are in a position to provide conflict prevention and post-conflict reconstruction. Second, one can also assume that such companies are especially sensitive with regard to civil society and state intervention (not to mention: pressure). They lend themselves more easily to outside influences than other business enterprises (SMEs, national). Hence one can expect that MNEs are relatively easy to target when it comes to exerting pressure towards conflict-sensitive business practices. Third, one can also assume that their behavior will impact on smaller businesses in the conflict/crisis regions as well as at home, given their central position in the chain of business. A host of other enterprises revolve around MNEs. Thus changes in the behavior of a MNE trigger changes in the behavior of those enterprises which depend on good business relations with that very MNE (presuming the MNE is willing to use its influence). MNEs play "a leadership role, in terms of both their global profile and the size of their operations and investments" (Nelson, 2000, p. 60). Finally, one can expect that MNEs will have an enlightened self-interest in a business environment free of violence and violent conflict, not least in order to avoid 'reputational costs'—but we will come back to that later.

The subject of the international discourse on 'business in conflict' can be narrowed down even further to MNEs from the extractive industries sector (oil, gas, and mining). Again, there are good reasons for this. Several MNEs from the extractive industries sector rank among the biggest corporations in the world, with resources at their disposal that dwarf those of many developing states in which they operate, not to mention host communities. They are 'big footprint' players as they make long-term and substantial investments in the countries and regions they go to and impact heavily on the environment and societal conditions. Empirical evidence shows that many internal violent conflicts in developing countries take place in regions where MNEs are active in extracting mineral resources. Extractive MNEs operate ever more in zones of instability, because deposits of natural resources in relatively safe and politically stable countries are running out. Hence oil and mining companies are forced into fragile and risky environments where natural resources

are still abundant. Moreover, in a way, extractive MNEs are doomed to 'stay put' in conflict regions as the resources they are after are locally fixed to relatively small sites. "By virtue of geography, they are bound to operate where lucrative and strategic natural resources—such as oil, gas, precious gems and minerals—are found" (Ballentine and Nitzschke, 2004b, p. 39). Extractive MNEs have to undertake large investments in extractive industries infrastructure over a long period of time (20 or even 30 years) in a given location. Oil extraction and mining on a large scale are not possible without the establishment of a highly sophisticated infrastructure for production and transport on site and on export routes. Thus extractive industries cannot easily leave crisis regions, whereas other businesses which are not that dependent on a special site can, i.e. manufacturers and service firms with comparatively light investments and mobile assets (Maresca, 2004, p. 124–125).

Experience in the recent past shows that there is a direct link between natural resources exploited by extractive industries, such as oil, natural gas, copper, diamonds, gold, coltan or other rare and precious ores, and 'new wars'. This is why some analysts have coined the term 'resource wars' in order to stress the importance of natural resources for triggering and fuelling war (Renner, 2002; Klare, 2001). External businesses are heavily involved in resource-related violence. The wars and violent conflicts in Angola (diamonds, oil), the Democratic Republic of the Congo (copper, cobalt, coltan, diamonds, etc.), Nigeria (oil) and the Sudan (oil) are the most prominent cases of recent years, but by far not the only ones. In fact, almost a third of all wars and major armed conflicts that were fought last year (2004) have a significant resource dimension (BICC, 2005, p. 30–31). Several of the so-called 'forgotten wars' in remote regions of the South are closely linked to the resource issue. The internal wars in Indonesia for example are cases in point (Aceh: natural gas and oil; West Papua: copper and gold). In these cases, abundance of natural resources has not led to development and wealth, but to violence on a large scale.[6]

As many developing countries heavily depend on extraction and export of mineral resources, they have no other choice than to invite extractive MNEs to do business on their territory. Because of the capital, technology and know-how needed, the MNEs are the decisive players in the business but their presence only too often causes, exacerbates or finances conflict—and financing conflict means contributing to its prolongation.

For all these reasons, it makes sense to concentrate on the extractive industries sector when it comes to the issues of 'business in conflict' and options for conflict-sensitive business practices.

In fact, it is mainly because of the entanglement of big oil and mining companies in internationally relatively widely publicized violent conflicts (e.g. Shell in the Niger Delta of Nigeria) that the international community has come to regard 'business and conflict' as a major concern.

The focus of the following sections will therefore also be on the extractive industries, examining the mechanisms by which oil and mining companies get involved in violent conflict. Additionally, several typical cases of such an entanglement will be presented in 'Boxes'.

Extractive industries and conflict

Extractive industries operations as a cause of conflict

Extractive industries can cause conflict, or at least contribute to the causes of conflict. The reason for that is—in most general terms—a mismatch between the benefits and costs of their operations. The extraction of minerals on a large scale inevitably has certain negative impacts. The drilling of oil and open-pit mining cause serious environmental degradation. This is especially the case in ecologically sensitive areas, such as rainforests, or in areas used intensely for (subsistence) agriculture. Many of today's huge—and controversial—oil and mining projects are located in such environments, e.g. the Niger Delta in Nigeria, the Sudd swamps in Sudan, or the highlands of New Guinea (Indonesia/Papua, Papua New Guinea).

Environmental degradation takes on various forms: land is diverted from its customary use on a large scale for the mine, company town, access roads, pipelines, etc. Rivers and soils are polluted, drinking water poisoned, forests destroyed, hunting and fishing grounds despoiled and wildlife suffers from extinction. When operations are conducted without proper environmental impact assessments, environmental legislation and environmental protection measures in place, negative environmental impacts are exacerbated. This is often the case in developing countries where the respective legal provisions are weak, and enforcement mechanisms even weaker. Under such conditions, extractive MNEs are tempted to 'forget' about environmental protection measures which as a rule add to the costs of operations.

The costs of environmental degradation have to be borne by nature and the people of the place. Local people are only too often forced to change their lifestyles or are even forced off their traditional land as they heavily depend on an intact environment for their material reproduction, in particular in cases of subsistence farming, fishing and hunting. More than this, the spiritual health and mental wellbeing of the local people is negatively affected, too. To many, land is not merely a commodity that can be exploited, bought and sold as in modern capitalist societies but is 'mother earth', home of the ancestor's spirits and of the unborn

generations. Environmental degradation caused by mining and oil projects thus impacts on the whole spiritual and cultural life of people who attach a meaning to 'land' that extends far beyond modern concepts. This can be a cause of conflict, the importance of which is often underestimated by actors who hold modern world views.

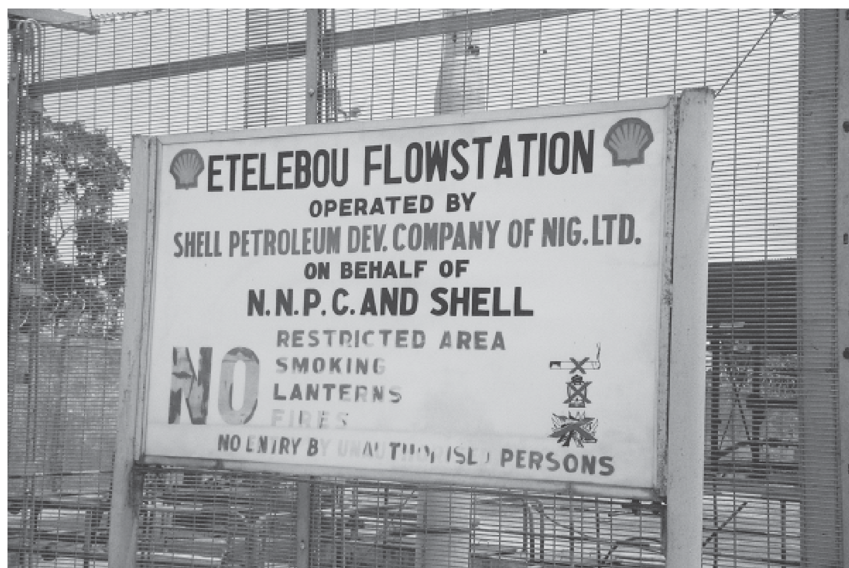
Local communities not only have to bear the environmental costs, but also the social costs of extractive operations. The intrusion of a big extractive project inevitably results in enormous changes in the social fabric of the place. Considerable numbers of 'foreigners' come in—expatriate, mostly white, management and staff or, especially during the construction period, workers from other parts of the given country when there are no, or not enough, skilled workers to be found locally. For them housing has to be provided; often completely new company/mining towns are built, roads are constructed, supermarkets established; often petty traders follow suit, not to mention the prostitution business, given the fact that most mine workers are young unaccompanied males. All these changes have repercussions on the formerly calm, mostly quiet and somewhat 'backward' social relations of local communities. They are confronted with outsiders who bring in their own culture and values and who are representatives of completely different lifestyles (often associated with 'development'). Conflicts between the local people and the 'intruders' can easily emerge.

The internal relations of local communities are not left unchanged, either. Differences that were unimportant before now come to the fore: between women and men (mining is an almost completely masculinized industry in which men get most—if not all—of the jobs at the project site, making them the major cash earners); between those with a job at the project site and those without; between old (who as household heads often profit from compensation money, or who oppose the project because it disturbs the tranquillity of the 'good old days') and young (who are left without compensation, or who greet the project enthusiastically because it brings 'development'); between those who receive compensation (because they own land that is directly used by the project) and those who do not (because their stretch of land is a few yards further away). Divisions of this kind can lead to conflict, too.

One has also to keep in mind that 'local communities' are in no way given entities. On the contrary, they often only emerge in the course of a process of self-identification and identification by outsiders; the self-identification of a group in order to represent its interests to companies, government agencies and other external actors follows processes of "both traditional and novel strategies of inclusion and exclusion. The bases for membership of local communities derive from the tension between competing strategies of inclusion and exclusion, which often turn upon rhetorics of land, kinship, myth, and cosmology" (Ballard and Banks, 2003, p. 298). These processes of inclusion/ exclusion are conflict-prone, as they determine who is eligible to access (e.g. access to jobs, business opportunities, infrastructure development and compensation). A "non-inclusive approach to benefit distribution" (Zandvliet, 2004, p. 1) from the company's side exacerbates access-related conflicts.

In this context, the issue of compensation in particular is highly sensitive. At first glance it might seem a good thing for MNEs to pay communities compensation, e.g. for use and destruction of land. However, there are a host of related conflict-sensitive issues to consider. In itself, the payment of compensation can become a major cause of social disintegration of local societal structures—and hence of conflict. Naturally, the actual amount of compensation paid is an issue that can cause protracted negotiations (and, after some time, re-negotiations and, further down the road, re-negotiations of the re-negotiations) which in themselves are conflict-prone. But there are even more conflictive compensation-related issues, e.g.:

- How the borders (geographically and genealogically) of the groups of people are defined that are eligible to compensation; drawing such borders always means excluding people
- How it is determined who the 'leaders' of a certain eligible group are and who are then to receive the compensation;[7] choosing the 'wrong' people can increase in-group competition and hostility, and especially generational conflicts between traditional elders and young people that may emerge when youth is disgruntled over the (in their view) 'misappropriation' of compensation money[8]
- How completely different cultural value systems can be reconciled. For example, the managers of a MNEs are normally of the opinion that once money has been handed over, e.g. for the destruction of a stretch of rainforest, the issue is settled 'once and for all' whereas the (traditional elders of) the local communities tend to hold the opinion that no amount of money can ever compensate the loss of the particular stretch of rainforest as it was not only a hunting ground but also the home of the ancestor's spirits—which might be a good argument for them to demand money again and again, all the more so as they see how rich the company is and that it can easily give more money—and 'to give' is a deeply rooted concept in many traditional societies.



SPDC flowstation, Niger Delta, Nigeria.

These mutual misunderstandings are part of a more general value-related context, in which western company management is focussed on 'doing business', delivering material goods and achieving tangible results, but ignores the more psychological-cultural aspects of the engagement with local people. These are often much more focussed on non-tangible aspects, "such as trust, respect, neighborliness and caring" (Zandvliet, 2004, p. 2). For them the 'soft' dimension of relations, their feelings and the 'feel' of the whole affair, is much more important. This is not to say that they are not interested in the material benefits of a project such as compensation, royalties, wages, equity participation and access to project-related infrastructure and services. However, in the first place they want to be respected, they want the external actors to understand that they are (only) guests on other people's land and they want them to behave accordingly. Guests and hosts in this view have mutually complementary obligations, and as the local people are willing to fulfill their obligations as hosts, they expect the company to fulfill its obligations as guest, and this is: to show respect and to deliver 'gifts'.

Other sensitive issues are hiring policies and the treatment of the local workforce: starkly divergent wage scales for local and expatriate labor, special facilities for expatriates, e.g. fenced company compounds with tennis courts and swimming pools, which are forbidden areas for locals, and the arrogant behavior of external workers and expatriate management might cause conflict. So might hiring policies that "reinforce sub-group identities and differences among groups. . . . For example, if a company hires all of its local staff from one sub-group in society (because of language, training, or location), and if the sub-group is defined as one of the groups in conflict with others, corporate hiring patterns may feed intergroup tensions" (CEP, Executive Summary, 2002b).

Another critical point is "location decisions: Corporate decisions about location of plants, staff housing, warehousing, and other infrastructure . . . can have two effects that exacerbate conflict" (Anderson and Zandvliet, 2001, p.3), namely impact on land value and usage, favoring one group over others, and population movement/ location: influx of external workforce on the one hand and/or (forced) resettlement of local groups on the other hand.

If the negative environmental and social impacts of the project are perceived by the local population, or major parts of it, as considerably outweighing the positive effects—which of course in general do also exist, namely the various facets of 'development': roads and market access, jobs and cash, health and education facilities, supermarkets (and brothels?)—then it is only too likely that the potential for serious conflict builds up. People on the ground get the feeling of being marginalized and exploited. This often has to do with unrealistic expectations with regard to the extent of 'development' and 'wealth' a mining or oil production project can deliver. However, unrealistic expectations often stem from false promises or non-transparent communications on the part of the MNE management and state authorities. This can easily lead to conflict, all the more so when the local communities are excluded from decision-making processes and when the benefits of the project are obviously enjoyed by a few privileged persons who live elsewhere—foreign shareholders and company management, national governments and elites in a far-away capital city—and maybe also workers who come from outside and bring with them all their bad habits, e.g. drinking, womanizing, fighting.

If the management of an extractive MNE is not aware of all these problems, it will certainly run into trouble. Once a conflict constellation has evolved, it may be too late for adequate responses. In general, a short-term risk mitigation strategy that only reacts to imminent threats or crises is substantially flawed as it leads to the perception on the side of the affected population that only threats (and violent action) can influence the company: "Companies generally respond immediately to threats, sabotage, and blockages; but not to letters and verbal complaints. Peaceful behaviour is not rewarded, violent behaviour is. . . . The more 'difficult' the community, the more community projects it generally receives" (Zandvliet, 2004, p. 1). If communities even then continue to complain about the company, they are regarded as 'ungrateful', and a more hard-handed approach is pursued, leading of course to the escalation of conflict, in particular

if inappropriate remedial measures are taken such as enhancing the 'security' of the project and staff by calling in the police or the military or by hiring outside private security firms with a dubious reputation.

To make things even more complicated, even well-intended measures can backfire, e.g. community relations projects which only address sub-groups of the local populace. "Community relations projects can feed into and exacerbate existing divisions between groups in a society by seeming to favour some over others. Companies tend to design their community relations strategies to avoid the most visible and apparent threats to the company, and thereby adopt mitigation strategies that are too narrow to incorporate the wider context of intergroup relations. As a result, the very programs they develop to foster good relationships with their communities can end by worsening relations between that community and others in ways that disrupt the company's business activities" (CEP, Executive Summary, 2002b). Often community development projects only address so-called host communities in order to keep them calm and hereby favor those communities in comparison to other, more distant groups. "Unintentionally, such an approach creates 'haves' and 'have-nots' which can result in (violent) clashes not only between these different communities but also between the group that feels left out and the company" (Zandvliet, 2005, p. 12). Oil companies in the Niger Delta of Nigeria have bitter experiences in this respect. To put it in more general terms: "Most companies design their social risk-mitigation strategies in a manner that may actually increase the risk to their operations" (Zandvliet, 2004, p. 1).

Local communities which are detrimentally affected by the negative environmental and social impacts of large extractive operations are inclined to engage in—violent—protest if and when they see no other avenues open through which to remedy their plight; that is if the company and the government refuse to listen and there are no institutions in place to pursue the interests of the affected communities in a non-violent manner. (Violent) protests provoke (violent) response from the government side, thus triggering a spiral of violence that may even escalate into war, as was the case in the Niger Delta in the 1990s. Here "gross underdevelopment in the midst of vast oil wealth has bred intense frustration and resentment" (Human Rights Watch, 2005, p. 8), especially among the large group of unemployed youth.

Of course, the picture would be incomplete without taking into account that not only 'grievance' caused by the negative impacts of extractive projects contributes to the emergence of violent conflict, but also 'greed', that is, the desire of community leaders, rogue elements of the local society, and criminals to enrich themselves at the expense of the MNEs—and at the expense of the host state or local communities, as well.[9] Under certain conditions, especially when there is a large group of unemployed disgruntled male youths easily available as foot-soldiers of would-be warlords, those greedy elements can recruit a considerable number of militants, and this allows them to risk violent action. Furthermore, it has been seen that over time the main motives of resistance often change from environmentally, socially, politically or otherwise substantiated 'grievance' to pecuniary, selfish 'greed'. Recent developments in the Niger Delta are a case in point. Here 'greed' is motivating the attacks on MNEs and their assets today. However, one must not forget that the troubles in the Niger Delta flared up as a result of the environmental degradation and other negative effects caused by oil production and the ensuing disintegration of traditional lifestyles and social structures, that is: because of grievance, and even today those grievances have still not been properly addressed. Now that the environment has been destroyed and traditional lifestyles can no longer be maintained, many of those involved in the violence are motivated more by the desire for a 'share of the pie' and are seeking to enrich themselves (greed). On the other hand, profit-driven oil companies might also be labeled 'greedy'—all the more so from the perspective of poor local communities. One must not forget that it is profit that makes Shell stay in such an unstable environment as the Niger Delta.[10]

However, it does not make sense to blame one or the other side as the 'bad guys'—neither the 'greedy' local actors nor the 'greedy' extractive MNEs. As a rule, it is not the bad intentions of one side or the other that cause conflicts in connection with extractive industries projects, but the structures of the relationship between the actors, the—unintended—side-effects of the transformation processes inherent in extractive projects (the 'collateral damage', one might say), and the confrontation of different or contradictory systems of interests, values and even world views. This is inevitable if extractive industries start to operate in formerly 'untouched' environmental and societal settings, and this inevitably causes conflicts—but it does not inevitably have to cause the violent conduct of conflict. On the contrary, there are manifold avenues for preventing violent conflict and for providing for the non-violent conduct of conflict. And this is what the discourse on conflict-sensitive business practices is all about.

Extractive industries entangled in conflict

MNE projects are not only a cause of conflict. Often they have to operate in an already conflictive environment, where conflicts emerged independently from their presence. But even in such cases their operations will affect, and will be affected by, the conflicts. MNEs inadvertently become embroiled in the struggles of the host country and of the locality their project is situated in, be

they conflicts between local communities and the government or intergroup conflicts. Even if the MNE is an outsider to pre-existing and ongoing local conflicts between groups, its operations are viewed by those engaged in these conflicts as having an impact on their struggles. As the local host community is either positively or negatively affected by the MNE's operations, the power relations to other groups are influenced in a way that impacts on the ongoing conflict.

Where community-government relations are concerned, one has to keep in mind that extractive industries operate ever more in remote regions of developing countries. There 'the state' and 'the government' are often hardly present on the ground. As state agencies are not present and the state does not deliver any services (e.g. with regard to education, health or security) 'the state' has difficulties in claiming legitimate authority. Under these conditions the company is not only looked upon as the entity which is supposed to step in for the state, but grievances held against the state are actually transferred to the company. Moreover, conflicts between local communities and the central government do not leave the MNEs untouched. On the contrary, MNEs easily become "the proxy targets for grievances held by some groups against a distant government" (Anderson and Zandvliet, 2001, p.1).[11]

Inappropriate behavior on the part of the company can exacerbate already existing conflicts and make the project site and staff prime targets of violence.

The most serious mistakes the management can make are linked to security measures. "Procedures adopted by security personnel can reinforce the separation of people with wealth from workers and communities in showy ways, or treat local people with disrespect and hostility. They can supply additional weapons and other equipment, such as radios, that enable pursuit of war" (Anderson and Zandvliet, 2001, p. 3). And if security is provided by security forces of the host state who are party to a conflict—the police or the military—this is inevitably perceived as siding with the government and its forces. In a way, the MNE legitimizes the security forces by accepting their protective services. As a result, the groups in conflict with the government will perceive the company as an ally of its enemies which render company property and staff a 'legitimate target' in the eyes of these groups.[12] This will be even more so in cases where the company closely cooperates with the security forces of the state, e.g. by providing transportation, communication and other infrastructure for the military, by directly paying the units that guard its assets, or—even worse—when company staff participate in military operations and human rights violation or when company sites are used in the conduct of human rights violations. The respective practice of Freeport in Indonesia/West Papua is a case in point, as is the company-military relationship in the oil-producing regions of Sudan (cf. Gagnon and Ryle, 2001, pp. 32–34; see also Box 1 on Papua/ Indonesia at the end of this chapter (pp. 21) and Box 2 on Sudan on pp. 36). Here, the human rights violations committed by the security forces will be also attributed to the company. "Indeed, there are numerous allegations against companies, such as BP in Colombia, Shell in Nigeria, and Unocal and Elf (now Total) in Burma, for their use of security forces implicated in large-scale human rights abuses and war crimes" (Ballantine and Nitzschke, 2004b, p. 41). One result may be increased attacks by insurgents on corporate operations, facilities and staff.

Similar problems arise if private security firms—be they international private military companies (PMCs) or companies based in the host country—are hired to provide protection for operations, facilities and staff. Such companies often have a negative record with regard to human rights and conflict-sensitive behavior, and can hardly be controlled. They often display an aggressive and arrogant attitude towards the local people whom they perceive as merely potential threat factors, thieves and troublemakers. Moreover, private security firms—and at times even the police or the military—have more to gain by maintaining of a certain level of threat than by reducing it. They will only stay in business if and as long as the company they are protecting is convinced that this protection is really needed. In the long run, the boundary between licit protection services and illicit enforcement of protection monies may become blurred.

Thus, in many locations a misalliance between extractive MNEs and either government security forces or PMCs contributes to the escalation of conflicts.

Extractive industries financing conflict

Extractive MNEs provide conflict parties with the revenues on which they depend to wage war. Repressive regimes in resource-rich developing countries that are engaged in armed conflicts with internal opposition groups are extremely dependent on foreign MNEs from the extractive industries sector. MNEs provide the necessary capital and technology to exploit the resources. They have access to international markets where the resources can be traded and money can be made. Only this linkage to the international market makes it possible to sustain war economies in the long run. Hence governments are only too willing to offer MNEs a range of incentives to operate in their respective countries, for instance tax holidays or comprehensive concessions of land.

In general, large extractive MNEs are willing to deal with governments which enjoy official international recognition even if those governments are repressive and engaged in internal war. They then deem themselves on the safe side, for as they are under the scrutiny of their

home governments and national and international public opinion they do not like the risk of being blamed by their own governments, by the media or by international organizations for doing business with illegitimate actors—not to mention the lack of legal protection and lack of insurance. And even if the respective government is actually nothing more than one of the fighting groups, maybe controlling only (parts of) the capital city, some major roads and the sites of minerals extraction and having no legitimacy with large portions of 'its' population whatsoever: as long as it is still internationally recognized as 'the government', MNEs will pay large sums to it for concessions, taxes, royalties, export duties, etc. Often governments also hold shares in the respective MNE operation in their countries. All these kinds of revenues fill the coffers of the government that then uses them to finance the fight against its internal adversaries. And more than that, such payments add to the legitimacy of repressive and unaccountable governments. As transparency and accountability are absent, members of the ruling elite are in a position to enrich themselves to enormous dimensions. Corruption and payment of bribes are endemic.

The problem, however, is not only (and even not primarily) corruption and other illegal practices. Rather the problem lies in the fact that the financial transactions between MNEs and host governments consist of mostly "legal—albeit morally questionable—payments" (Ballentine and Nitzschke, 2004b, p. 40). These payments can have an critical impact on conflict dynamics, "particularly where they constitute the lifeblood of repressive governments" (Ballentine and Nitzschke, 2004b, p. 41).[13] Transparency of payments is therefore an important aspect of approaches to break the business-conflict relationship, and this is why initiatives like Publish What You Pay (PWYP) and the Extractive Industries Transparency Initiative (EITI), covered in a later chapter, are so important.

To summarize this argument one has to state that under circumstances of "continued strong external support for the notion of juridical sovereignty" even weak governments with a doubtful legitimacy enjoy "the comparative advantage of secure recognition" (Reno, 2001, p. 214).

The armed opposition groups challenging the government lack this very recognition which makes it much more difficult—if not impossible—for them to do business with extractive MNEs.[14] "Vulnerable rulers of weak states therefore possess a powerful advantage as commercial partners over their insurgent rivals. Even if power is contested on the ground, firms will prefer to side with the individual who will (or is most likely to) enjoy international recognition of sovereignty" (Reno, 2001, p. 207). This might be one of the reasons why rebellions in a setting where precious mineral resources from point sources are at stake often aim at secession, because only an "own" state would guarantee safe access to those resources via involvement of MNEs which bring in the necessary capital and know-how (cf. Ballantine and Nitschke, 2004a). The war in Angola's Cabinda enclave, which is the country's main on-shore production region, is a case in point. It makes sense for rebels to strive for an "own" state, the territory of which includes the sites of resource extraction.[15] At least this holds true with regard to so-called non-lootable resources, that is oil and other point resources, the extraction of which requires a high degree of effort in terms of capital, technology, know how, transport, and trade (Billon, 2001; Ballentine and Nitzschke, 2004a). Such resources cannot be looted by non-state armed groups because the latter have neither the capacities to exploit them on their own, nor are they in a position to find allies who would be able to provide those capacities. Such armed groups therefore pursue a strategy of denial: they kidnap company personnel, destroy company assets, and sabotage infrastructure. By doing so, they can try to weaken the financial basis of the enemy. And, by threatening to attack company assets, they can underscore demands for 'protection' money, thus also profiting financially from the presence of the company. Kidnapping of company personnel is another source of income that is highly welcome.[16]

On the other hand, lootable resources—that is, resources which can be easily accessed, extracted, traded and transported (e.g. alluvial diamonds that are mined by artisanal miners)—favor rebel groups. Only minimal capital investment, very basic technology and an unskilled workforce are needed to mine them. 'Conflict diamonds' from Sierra Leone (RUF) or Angola (UNITA) are typical in this respect. There alluvial diamonds provided easy loot for rebels.

When it comes to lootable resources, MNEs from the extractive industries sector are generally not involved as the investments and the technology they can provide are not needed. However, the distinction between lootable and non-lootable resources is not a given. Recent evidence shows that non-lootable resources can turn into lootables. For instance, over the last years rebel groups in the Niger Delta have developed elaborated ways of bunkering and illegally trading crude oil—something which was not thought possible at all some years ago (see Box 6 on the Niger Delta on pp. 71). At this stage MNEs get involved again as it is 'their' oil that is stolen and traded illegally. In the meantime bunkering in the Niger Delta has become a major cause of considerable losses for MNE operations.

The role of business: pre-conflict, in conflict, and post-conflict

Private business—and MNEs in particular—can play different roles in respect to conflict prevention in the various different phases of conflict, that is: pre-conflict (when the violent conduct of conflict has not yet begun, but the danger is imminent); in conflict

(when violence occurs on a large scale); and post-conflict (when fighting has ceased but the situation is still unstable).

The post-conflict role of MNEs is relatively easily to determine (cf. Nelson, 2000, p. 46–47). Immediate post-conflict foreign investment is often desperately needed to reconstruct war-torn societies and to help kick-start the economy. Jobs and business opportunities have to be created for large numbers of mostly young ex-combatants, refugees and other war-affected civilians, and failure in this regard triggers the danger of resurgence of violent conflict.

In particular, MNEs can contribute to Disarmament, Demobilization and Reintegration (DDR) and Security Sector Reform (SSR) in post-conflict situations. They can take over a substantial share of reintegration efforts by providing ex-combatants with training, jobs and income. The provision of economic opportunities is decisive for efforts to demobilize and disarm ex-combatants. MNEs can provide special employment and income-generating options for ex-combatants that extend beyond the standard 'DDR-packages' that are normally offered by international organizations. They can thus contribute decisively to tipping the cost-benefit calculus of ex-combatants in favor of peace. And MNEs can refuse to collaborate with discredited security forces, insisting that they be reformed in accordance with civilian control, transparency, accountability, adherence to the law, and human rights.

In a long-term perspective only the private sector can open up new investment opportunities, provide employment, and initiate the development of new enterprises. All of this is critical for the stabilization of post-conflict settings, especially in the long run (Maresca, 2004, p. 124). Experience shows that foreign aid floods into post-conflict regions in the early months after the cessation of hostilities but has a tendency to dry out after approximately two years or so. This poses a great danger for post-conflict stabilization, and companies with a long-term investment perspective can help to overcome that danger. They are committed to stay longer than aid agencies.

Of course, foreign companies that invest in post-conflict zones have to adhere to conflict-sensitive business practices because otherwise their presence can also contribute to the resurgence of conflict.

Apart from investments in the post-conflict period which as such can contribute to stabilization, MNEs could and should go one step further and present themselves as good corporate citizens by additionally addressing community needs directly, e.g. in the health and education sector and in assisting small local enterprises, or by providing non-financial support, e.g. managerial expertise. In short, this means engaging in Corporate Social Responsibility (CSR) projects. This would not only help the people in post-conflict settings but can also contribute to the improvement of the corporate image, both in the host country and at home or on the international stage. Of course, CSR projects again have to be run in ways that do not favor one section of the populace over the other, as this could incite new conflict.

In post-conflict settings, visible progress is the key to creating stability: the activities of businesses have to have a concrete positive impact on the daily lives of people on the ground. They must realize that the presence of foreign business really adds to the 'peace dividend' by improving the wellbeing of individuals and communities by creating jobs and income, reconstructing infrastructure and opening up avenues to national and international markets.

Of course, there are a number of hindrances that have to be overcome in order to induce foreign investment in post-conflict situations. Foreign capital is often very reluctant to enter into post-conflict settings, especially because of the fragility of the situation. Hence, a relatively secure environment has to be provided in order to trigger the flow of private-sector investment into such settings. On the other hand, private sector investment is a decisive factor for making the environment secure. Thus one is confronted with a kind of vicious circle. There is no other way out than that the private sector increases its willingness to take on short-term investment risks (to a certain extent softened by the perspective of long-term gains); and that donor countries, international organizations like the UN and IFIs like the World Bank (push for an) increase (in) the provision of political-risk insurance.

Where pre-conflict and in-conflict situations are concerned, it is much more difficult to define possible positive roles of external MNEs.

The most basic question probably is: Should MNEs generally withdraw from zones of crisis and violent conflict so as not to become entangled in the conflict and the human rights violations which inevitably go with it and not to become responsible for financing—and thus prolonging—such conflict; or should they stay put, so as not to leave the people on the ground alone who stand to gain in one way or another from their presence (in terms of jobs and developmental achievements such as roads, schools, health facilities, etc.) and so as not to miss the chance of influencing conflict parties in a positive way? There is probably no clear cut general answer to that question.[17]

In situations where conflict has turned violent the best thing to do in most cases would be to leave the scene—even if this might cause considerable costs—as the negative effects of an MNE presence would by far outweigh the

positive ones. This in particular holds true for situations of state collapse, when the 'state' is often not much more than a name on a map. In such circumstances it is almost impossible to do business without becoming entangled in violence and human rights violations. The state has lost its monopoly of legitimate physical force and is no longer able to enforce law and order and regulate societal conflicts. This opens up space for other actors who usurp the authority to conduct—and control—violence and who get tangled up in heavy fighting among each other over the control of territory, people and resources: warlords, militias, criminal networks, traditional societal units like clans, etc. Under such conditions, 'security' for businesses (and for people alike) becomes a commodity that has to be bought and paid for, and business enterprises have to seek protection from actors with no, or rather doubtful, legitimacy, e.g. PMCs or even outright mercenary firms. This is an environment law-abiding corporations from the OECD-world can hardly legitimize doing business in. Hence the only adequate option is withdrawal. However, there may be exceptions. For instance, frequently internal conflicts do not affect the entire territory of a given country. 'Pockets of peace' can be found, and it can make sense to stay there in order to try to exert a positive influence on the mitigation of the impacts of conflict, assistance in conflict management, and efforts towards conflict resolution. Virginia Haufler for instance recommends remaining invested but operating in such a way as to reduce conflict (Haufler, 2001a). And the Confederation of Norwegian Business and Industry holds the view that "divestment is not always the most responsible choice. There is also a risk involved in abandoning problem areas to what will in all likelihood be a miserable fate. Therefore, in many cases, responsible engagement is preferable. Only when it seems impossible to operate without harmful side-effects becoming disproportionate, and when little or nothing can be done to minimize or prevent such harmful impact, will it become necessary to withdraw" (NHO/PRIO, 2003, p. 6–7). One has to assess on a case-by-case basis whether to leave or to stay. The development of "criteria by which to assess those settings where conflict and absence of rule of law are so severe that investment and operations cannot be assured to 'do no harm' " might help in decision-making (Ballentine and Haufler, 2005, p. 34). In any case, a decision depends very much on the concrete situation on the ground.

This also applies to pre-conflict situations when the danger of outbreak of violent conflict is imminent. In such a situation either option might be sensible: to leave (or to threaten to leave) in order to withdraw assistance from the conflict parties, or to stay in order to exert influence on the conflict parties in the interest of conflict prevention. MNEs might commit themselves to establishing 'islands of decency' in an otherwise tense and conflictive environment. One can expect that by doing so they could exert a positive impact on that environment in the medium and long term, especially if they insist that their local and national business partners also adhere to conflict-sensitive business practices. Only a thorough and comprehensive analysis of the concrete situation on the ground will show which option—withdrawal or commitment—would be best to take.

One has to be aware that complete withdrawal may only exacerbate the situation, removing an important external actor from the scene and undermining the livelihoods of those on the ground who depend on it. The option of withdrawal becomes even more problematic if other—rogue—companies are willing and capable to step in. "When reputable resource extraction companies withdraw from difficult environments as a result of greater international public scrutiny, they may well be replaced by companies that are less reputable or less vulnerable to international pressure or shareholder concerns" (Bannon and Collier, 2003a, p. 15). An example of that happening can be found in Sudan where the Canadian company Talisman Energy left in 2003 and an Indian company took over Talisman's investments. However, the popular argument "If we don't do it (stay in a conflict zone and do business with harmful side-effects) someone else will" is not valid at all as "it is never acceptable to commit a wrongful act even though this may prevent someone else from committing an even worse act" (NHO/PRIO, 2003, p. 13).

Towards conflict-sensitive business practices

Companies operating in zones of conflict generally claim to be politically 'neutral'. They argue that they have no means to—and are legally and morally not allowed to—influence the governments of host countries (or other warring sides). However, given the fact that they have to liaise with governments in order to achieve a license to operate in the first place, that they often rely on the protection of state security forces, which in some cases are even on the company's payroll, and given the fact that they provide governments with the financial means to wage war, the notion of 'neutrality' is far from the realities on the ground. By the mere fact that they are doing business in zones of conflict, they are automatically involved in politics. Companies in zones of conflict *cannot* be neutral. An example for that is given by the situation in the oil-rich region of Western Upper Nile. Here the scorched earth tactics of the government security forces were part of a general strategy "designed to make particular rural areas

hard to live in and their inhabitants frightened to stay" (Gagnon and Ryle, 2001, p. 22) in order to clear the scene for oil production. Here military operations against rebel forces and military operations designed to secure oil fields were not distinct from one another: rather, they were identical. Oil facilities and infrastructure were *de facto* military facilities. The oil fields were the most heavily militarized locations, and local communities were considered security threats by state security forces protecting oil company assets. On the other hand, company property and staff were viewed as military targets by rebel forces (Gagnon and Ryle, 2001, p. 39). To claim 'neutrality' under such conditions is nothing but cynical. As in the case cited here, companies are only too often the beneficiaries of the violence exerted by state security forces and the human rights violations that go with it.

Hence it is legitimate to demand of businesses operating in zones of violent conflict that they give up the notion of 'neutrality' and take sides: to take sides in favor of conflict prevention, conflict management and mitigation, and peacebuilding. Only if one accepts this prerequisite, does the discourse on conflict-sensitive business practice make sense at all. In short, "when a company enters a conflict zone, it also enters a conflict: the company becomes part of the conflict situation whether it likes it or not" (NHO/PRIO, 2003, p. 7).

In the international realm, various approaches are followed to break the business-conflict linkage and to promote conflict-sensitive business practices. Emphasis lies on the establishment and implementation of control regimes of different kinds, *inter alia* targeted commodity sanctions, regimes that address financial flows sustaining war economies, and standardized global certification schemes. In addition to control regimes and interdiction policies, a rather recent international discourse about corporate social responsibility in general and codes of conduct in particular as an instrument for influencing the conflict-relevant behavior of MNEs, and other businesses, is becoming increasingly prominent with policy-makers, business representatives, civil society and researchers alike. The following chapter of this *brief* will focus on that discourse, trying to assess the conflict preventive potential of such an approach (Chapter 2). Another focus will be on the more familiar and older approach of commodity sanctions (see Chapter 3).

One has to be aware that today codes of conduct mainly address issues of the environment, industrial relations and human rights. However, the topic of business and conflict also lends itself to this approach. In the same way that companies today subscribe to self-binding obligations with regard to the respect of human rights, protection of the environment or adherence to labor norms, they could also declare that they will conduct business in ways that will not lead to violent conflict or the escalation thereof and that will contribute to conflict prevention and mitigation. This is, of course, of special relevance to the conflict regions of the south and the enterprises doing business there. However, suppliers, financing agencies and other business partners could also be included in this kind of commitments. Conflict-sensitive codes would make it possible to hold companies accountable—at least morally—in crisis situations as well as in conflict and post-conflict settings. They would provide a strong signal that the companies are well aware of their responsibilities as good corporate citizens and that they are willing to live up to these responsibilities by making their contribution to conflict prevention, conflict management and post-conflict peacebuilding.

The willingness of MNEs to participate in respective endeavors has markedly increased over the last years, not least because of the pressure put on them by civil society. MNEs have had to realize that doing business in zones of conflict does not only pose direct risks, e.g. to staff and property, but also indirect risks: the so-called reputational costs can become (unacceptably) high when civil society advocacy groups challenge the interactions of MNEs with regimes engaged in violent conflicts accompanied by gross human rights violations (Bray 2003, p. 294; Nelson, 2000, p. 23–25). The more important the factor 'reputation' is, the more vulnerable a corporation is to NGO pressure—and thus the more willing it is to change its behavior in conflict situations.[18] Shell, for instance, had to learn that lesson in the mid-1990s with regard to its business activities in the Niger Delta. The diamonds industry (De Beers) is heavily dependent on reputation and image, too. Therefore it was very vulnerable to civil society campaigns targeting 'blood diamonds'—hence its willingness to participate in the Kimberley Process.

Nowadays international NGO advocacy networks and global communication technology have placed MNE activities in the global public domain. And "as values become increasingly globalized, companies are expected to uphold the same standards of 'acceptable' business practice both at home and in host communities abroad" (CEP, Executive Summary, 2002b). International NGOs make use of the international media and the public at large to hold MNEs accountable. Confronted with these 'naming and shaming' strategies, MNEs have become gradually more willing to engage in discussions about corporate social responsibility and codes of conduct. Even if this willingness is to a large extent motivated by the intention of fencing off even more uncomfortable approaches, namely legally binding and enforceable obligations, by giving "the appearance of regulation" (Evans, Russell and Sullivan, 2002, p. 214), self regulation of private business can no doubt be a step in the right direction (see Chapter 2). Most major MNEs by now have their own individual

corporate codes of conduct that address issues such as human rights, environmental protection or industrial relations and, because of the particular exposure of the extractive industries sector to reputation risk, the big mining MNEs have been "in the forefront in developing codes of conduct" (Feeney, 2002, p. 9). However, MNEs obviously have a strong tendency to promote the concept of self-regulation and insist on merely voluntary, non-binding instruments such as the Global Compact or codes of conduct of various sorts.[19] Civil society organizations on the contrary demand more binding instruments. This holds true in particular for some important NGOs that specifically monitor mining operations, such as Project Underground (US), the Mineral Policy Center (US), Mining Watch Canada, the Mineral Policy Institute (Australia), or Partizans (UK). They are skeptical of voluntary self-regulating initiatives promoted by the big mining MNEs, for instance the Global Mining Initiative (GMI).[20]

Given the importance of NGO initiatives in the field of business and conflict, another focus of this *brief* will be on the role of civil society in influencing corporate behavior (see Chapter 4). The concluding chapter, in which we will try to summarize the results of the debate and put forward some proposals on to how proceed from here, will to a large extent draw on that NGO debate (see Chapter 5).

Box 1: Mining, violent conflict and human rights violations—Freeport in Papua (Indonesia)

The western part of the island of New Guinea (West Papua) was under Dutch colonial rule until the early 1960s. After the Dutch had left, it was occupied by Indonesian forces (1963) and finally officially incorporated into the Indonesian state in 1969 as the province of Irian Jaya. Ever since, large sectors of the indigenous Papuan population have opposed Indonesian rule and insisted on the right to self-determination. In fact, a militant movement called *Organisasi Papua Merdeka* (OPM, Movement for a Free Papua) has waged a low-intensity war against the Indonesian security forces from the mid-1960s onwards, making the OPM the oldest guerilla force in the world. A regime of severe repression was imposed in Irian Jaya/(West) Papua over the last decades. After the fall of the Soeharto dictatorship, the situation improved to a certain extent. However, the war still lingers on, and the political and human-rights situation is far from satisfactory.

It is in this political environment that the largest gold and copper mine of the world operates. It is the Grasberg mine in the highlands of New Guinea, owned and run by the US mining giant Freeport McMoRan. Freeport came to Papua in the early days of the Soeharto regime. In 1967, Freeport signed its first contract of work with the Indonesian government, which later became a shareholder (20 percent) in PT Freeport Indonesia. Exploitation of the ores of Ertsberg was followed by neighboring Grasberg, where Freeport had discovered another huge deposit of gold and copper (at elevations of more than 4,000 meters). A new contract of work relating to Grasberg was signed with the Soeharto regime in 1991. The Grasberg mine is one of the largest excavations on earth with 700,000 metric tons of material moved per day.

Freeport started doing business in Indonesia in times when hardly anybody cared about the environment or the people in places as remote as the highlands of New Guinea. Hence, the management of Freeport and its allies in the Indonesian central government were not restricted in any way from pursuing business practices that were merely profit-oriented and the results of which were total environmental and social catastrophe. Neither curtailed by any environmental legislation nor by any institutions which could uphold the interests of the local people (who were regarded as some kind of stone-age savages by the central government and its local authorities), Freeport developed the mines in a completely ruthless manner. Local people were forced off their lands in their thousands with the assistance of the Indonesian military and forcibly resettled in the lowlands, far away from their traditional homes. Mining operations were conducted without any environmental protection measures in place. Environmental degradation caused by a huge mining project like Ertsberg/Grasberg can be tremendous. Not only the land of the mining site itself was destroyed, but also vast areas downstream, as well as adjacent alpine valleys that are used as dumping grounds for the overburden, filling the valleys up to 450 meters high. Furthermore, even today the mine discharges up to 200,000 tons of overburden and tailings (laced with acid and heavy metals) a day (!) into the local rivers (so-called riverine tailings disposal, which is banned by law in the US and all other developed countries). This has caused siltation of fertile river banks, destruction of fish stocks, contamination of drinking water, and destruction of rainforest on a large scale. The original landowners, the people in the mine area and downstream (mainly the Amungme and Komoro people), who lived subsistence lifestyles until the arrival of Freeport, lost the material basis of their life; and they lost the basis

of their cultural-spiritual life, which was strongly attached to the land, now destroyed by mining operations (the Grasberg mountain, which has turned to a huge open-cast hole, is a holy site to the Amugme people). They got hardly any compensation, and Indonesian authorities neglected the development of these marginalized people.

The workforce at the mine (approximately 9,000 workers) came from other Indonesian provinces, and management remained in US hands. Thus the costs and benefits of mining were extremely unevenly divided. Whereas the local population was left with environmental degradation, social disintegration and developmental neglect, the US shareholders and the Indonesian state were on the winning side. Freeport became Indonesia's largest single tax payer (which it still is today). It accounts for half of West Papua's GDP. However, revenues from mining were transferred to central authorities (and foreign shareholders, of course). The province itself got almost nothing—not to mention the indigenous landowners.

No wonder that members of the local people turned to protest that at times became violent, attacking mine installations and staff. The reaction of Indonesian authorities was the use of force on a massive scale. Hence, the mine area became highly militarized, and even today, approximately 2,300 military personnel are deployed in the mine area. Again and again, Indonesian security forces cracked down on the local population ruthlessly, showing no respect for human rights. Villages were burned down, people forcibly resettled, women raped and men tortured, people arbitrarily detained or even killed.

Freeport accepted this kind of protection. There are several reports of Indonesian security forces using Freeport assets to conduct their operations against the local population and to commit gross human rights violations, e.g. Freeport containers on the mine site were used as detention and torture cells. Freeport and the Indonesian security forces were closely allied. The military was "directly logistically and financially reliant on Freeport support to the extent that, without the company, (it) would not be able to perform its operations" (Leith, 2003, p. 232). This unholy alliance was upheld even after the fall of the Soeharto regime, although under the new political conditions Freeport began to feel ever more uneasy with that relationship. The Indonesian military insisted on providing Freeport with 'protection'. For the local commanders this was a major source of 'off-budget' income. Freeport continued to pay the local military forces considerable amounts of money for their services. In March 2003, the management had to admit that it had paid 5 million US dollars to local military units in the year 2001 and 5.6 million US dollars in 2002.

Thus Freeport became part of the infamous system of off-budget financing of the Indonesian military. One has to keep in mind that the official defense budget of the Indonesian state by far does not cover the real costs. Hence a huge military business complex has developed over time, and the military relies heavily on the off-budget funds that its business activities generate (between 65 and 75 percent of the money spent on the armed forces comes from off-budget sources) (McCulloch, 2003, p. 121). Those activities comprise not only the official legal economy, but also the informal shadow economy and even outright criminal activities (McCulloch, 2003). It is conventional wisdom that nowadays virtually no company in Indonesia can do business without some links to the security forces. The territorial units of the army are self-financing to a considerable degree. And those units in the Freeport area obviously did especially well. The "barracks, equipment and vehicles in that area are much better than elsewhere, as are the private bank balances of certain individuals. . . . There is no doubt that a trickle-down effect is in place, whereby most serving personnel benefit from their proximity to the operation" (McCulloch, 2003, p. 113). As one former Freeport employee revealed: "The military in that area have tremendous needs beyond those accommodated by their official budget allocation. They demanded money from the company (Freeport), and they just would not go away" (cited by McCulloch, 2003, p. 112). The former Indonesian Minister of Defence, Juwono Sudarsono, conceded "that elements within the military had incited the unrest experienced by Freeport in order to highlight the benefits of their presence" (McCulloch, 2003, p. 113). This practice was highlighted by an incident in August 2002 when two US citizens employed by Freeport were killed in an ambush on a road close to the mine site. The military blamed the OPM, but investigations (involving the Indonesian police and the FBI) finally revealed close links between the attack perpetrators and the Indonesian military. As a consequence, the US suspended IMET funds (International Military Education and Training) to the Indonesian military (IMET funding was resumed in 2005). Obviously the military wanted to underscore the necessity of its presence and the need for Freeport to pay for protection.[1]

Things have nevertheless changed over the past few years. Freeport has had to adjust its business practices considerably, and was forced to do so by a coalition of local civil society organizations and traditional community leaders on the one hand and national as well as international NGOs and advocacy groups on the other hand. As of the mid-1990s, the local people began to organize themselves and to put forward

demands to Freeport with regard to compensation, environmental and human rights assessments, community development, cessation of tailings deposition into the rivers, reclamation of land degraded by mining activities, etc. Their main voice became LEMASA, the Amungme Tribal Council. LEMASA even tried to take Freeport to the courts in the United States. It was assisted by the churches in West Papua and human rights NGOs which came to the fore at that time in Indonesia. And at Freeport's headquarters in New Orleans, student groups and environmental and human rights NGOs took up the case, which gradually became more widely known to the international public at large. Now the human rights abuses of the past have also been documented, including torture, rape, indiscriminate and extra-judicial killings, disappearances, arbitrary detention, forced resettlement, severe restrictions on freedom of movement, etc. (Abrash and Kennedy, 2002, p. 68). Churches and the Indonesian Commission on Human Rights (Komnas HAM) among others published several reports.

It was under these circumstances and against the background of political changes in Indonesia that Freeport was forced to develop a more conciliatory policy. *Inter alia*, it offered to the local communities a so-called One Percent Trust Fund, which designates one percent of Freeport's annual revenues for community development, and it promised to make the mine operations more environmentally sound. In 2000, the company signed a memorandum of understanding (MoU) with representatives of the Amungme and Komoro people in respect to social and economic development. Of course, this can be interpreted as divisive tactics—and in fact, the One Percent Trust Fund led to considerable intra-community conflict. On the other hand, however, these changes can also be certainly interpreted as a success of the combined pressure of local and international civil society. And even if the perpetrators of human rights violations have not been taken to justice so far; even if victims have not yet received compensation; even if the MoU "offers nothing in terms of addressing local concerns regarding public health, land tenure, and environmental protection" (Abrash and Kennedy, 2002, p. 72); even if the military is still heavily present; and even if environmental degradation continues: the activities of local and international civil society certainly have improved the chances to hold Freeport accountable for environmental impacts and human rights violations in the future and to break the unholy alliance between Freeport and the Indonesian security forces. The story of Freeport in West Papua is proof of the thesis that nowadays far away places do not exist anymore. Furthermore, recent developments on the international level and above all within the UN system with regard to the promotion of conflict-sensitive business practices—especially in the extractive industries sector—will some day even impact on " the most maverick US multinational in the world today" (*Far Eastern Economic Review* about Freeport).

[1] Freeport had made direct transfers, in amounts ranging from US $1,800 to 2,100 per month into the personal account of the regional military commander. These payments were discontinued in the months leading up to the August 2002 attack (cf. Robert F. Kennedy Memorial Center for Human Rights, West Papua Report, February 2005 and Press release John Rumbiak/ ELSHAM, 17 February 2005).

Endnotes

[1] Of course, exploitation of and trade in lucrative natural resources is only one important source of self-financing. Others include diaspora remittences or the stealing of foreign aid, kidnapping, 'war taxes', smuggling, etc. Hence access to precious tradeable natural resources is not necessarily a prerequisite for the violent conduct of conflict; local conflict actors who cannot rely on a resource-rich environment may still be able to finance their activities by other means.

[2] "Armed conflicts and natural resources can be directly related in two main ways: armed conflicts motivated by the control of resources, and resources integrated into the financing of armed conflicts. Although few wars are initially motivated by conflict over the control of resources, many integrate resources into their political economy. While it would be an error to reduce armed conflicts to greed-driven resource wars, as political and identity factors remain key, the control of local resources influence the agendas and strategies of belligerents" (Billon, 2001, p. 580).

[3] The role of local business and SMEs in peacebuilding is comprehensively dealt with by Killick, Srikantha and Guenduez, 2005.

[4] "Understood broadly, 'conflict-sensitive business practices' (CSBP) refers to proactive and responsive efforts to ensure that routine company investments and operations in weak states (including those at war and those emerging from conflict) do not contribute to ongoing violence, corruption, criminality or human rights violations. They also refer to positive efforts to contribute actively to peacebuilding, human security and sustainable development" (Ballentine and Haufler, 2005, p. 22).

[5] "Distinctions need to be made between the activities of rogue companies—enterprises that deliberately seek to profit from conditions of conflict—and legitimate company operations that can unintentionally fuel conflict" (Ballentine, 2004, p. 9).

[6] "Mining has been central to the evolution of the notion that resources can be a curse that gives rise to a lack of development, internal tensions, human rights abuses, and conflict at the national level" (Ballard and Banks, 2003, p. 295). Auty first provided the 'resource curse' label to grasp this problematic issue, of which state collapse and violent conflict is only a highly escalated—and relatively rare—expression (Auty, 1993; see also Ross, 2003; Ross, 2004). For a recent comprehensive analysis of the problematic nature of resource abundance, see Auty, 2004.

[7] In general, it is often difficult for MNEs to identify authorized negotiating partners in local communities. Such communities often adhere to highly complex customary institutions and decision-making procedures.

[8] A striking example of how these problems might lead to intensified conflict are company-community relations in the Nigerian Niger Delta. In the delta, designation as a 'host community' of an oil company operation "brings significant benefits in the form of compensation, community development funds and promises of labor and security contracts. The oil companies negotiate such agreements and contracts with individuals whom they identify as community representatives, notably the top traditional leaders and chiefs. These policies have fueled inter-communal conflict by funneling large quantities of money to the tribal leaders, many of whom fail to share the benefits with their community. As traditional leadership positions became more lucrative and the tribal elders more powerful, the competition to occupy them intensified. . . . Local leaders competing to assume top chieftancy positions in an area recruited youth leaders and provided them with money and weapons to assist in their often violent struggles to control villages" (Human Rights Watch, 2005, p. 6–7). In the meantime, youth leaders have often turned against tribal elders for control of compensation money, etc.

[9] We cannot go into the detail here about the 'greed-versus-grievance' debate which has occupied a great number of scholars over the last few years and has led to a host of publications discussing the pros and cons, but would like to mention two outstanding contributions: Collier and Hoeffler, 2001 and Ballentine and Sherman, 2003. Our focus is on business behavior, not on the motivations of conflict actors, so we do not have to take sides in that debate.

[10] This provides a good occasion to question the conventional wisdom that business always needs a politically stable environment. Although the risks associated with operating in the Niger Delta are very high, Shell and others stay there and have obviously developed coping strategies which make the best out of the existence of instability. Instability in Nigeria seems to be of little political hindrance to Shell as the profits that can be made there outweigh the costs of instability (cf. Frynas, 1998). "Conflict is not an absolute deterrent even to majors, as long as the resources are attractive enough and they believe that they can manage the risks" (Bray, 2003, p. 301).

[11] This is a reason why "there may be risks in asking companies to take on responsibilities that properly belong to states. Doing so not only increases company exposure to misdirected political grievances, but also perpetuates weak and unaccountable governments" (Ballentine and Haufler, 2005, p. 36).

[12] For instance, the GAM rebels in the Indonesian province of Aceh targeted Exxon-Mobil's oil and gas pipelines because that company was seen as collaborating with the Indonesian regime and military. In fact, the Indonesian security forces had received considerable amounts of money from the company for the protection of its assets. As a result of rebel attacks, Exxon-Mobil had to stop production in March 2001 (Heiduk, 2004, p. 12).

[13] Often MNE executives do not know how governments spend revenues and claim that they have no say in financial decisions of sovereign governments. "However, they may suffer from the consequences of those decisions. If revenue distribution is perceived to be unfair, or to contribute to conflict, the companies are believed to share some of the blame" (Bray, 2003, p. 316).

[14] Of course, there are exemptions from the rule, e.g. Firestone in Liberia that produced and exported rubber from 'Taylorland' and that paid the then warlord Charles Taylor 'taxes' (cf. Reno, 2001, p. 203).

[15] Another option for rebels is what Ross terms the sale of 'booty futures'—"the right to exploit mineral resources that the seller has not yet captured" (Ross, 2004, p. 57). This sale of future exploitation rights to natural resources helps prolong—and sometimes even start—conflicts (Ross, 2003; Ross, 2004).

[16] Armed opposition groups can profit from what Anderson and Zandvliet term 'resources importation': "When corporations introduce significant resources into a resource-scarce environment that is in conflict, these resources are seen as potential spoils of, and supplies for, war. Corporate resources such as equipment, vehicles, supplies or products can be stolen to feed the coffers of the fighters. … Bribes or kickbacks can feed directly into systems of corruption linked to support of conflict. All of these resource transfers can provide the means for fighting; they also reinforce economic motivations for conflict" (Anderson and Zandvliet, 2001, p. 3).

[17] For a discussion of the 'pros and cons', see Nelson, 2000, p. 76–79.

[18] In this context it is also worthwhile mentioning that socially responsible investment is becoming ever more important, giving "greater weight to shareholders' ethical concerns, including human rights" (Bray, 2003, p. 303). Ethical investment funds cannot be ignored any longer. Shareholders interest in companies' performance on social issues has even led to respective rating systems. The FTSE group for example has developed the FTSE4Good Socially Responsible Investment Index, which "provides ratings assessing companies' performance in three areas: environmental sustainability, relationships with shareholders, and support for universal human rights" (Bray, 2003, p. 304).

[19] Moreover, 'these voluntary initiatives have not been widely adopted by companies, nor have they coalesced into a cumulative and sustainable systemic impact" (Ballentine and Haufler, 2005, p. 32).

[20] The GMI was launched by some of the world's biggest mining companies in 1999. Part of it was the MMSD project (Mining, Minerals and Sustainable Development) that aimed at promoting the idea of the extractive industries contributing to sustainable development. Many mine-watching NGOs were very critical of that and similar endeavors, "seeing them, at best, ill-conceived and, at worst, 'greenwashing' designed to promote the industry's self regulation agenda" (Evans, Russell and Sullivan, 2002, p. 213).

Regulatory Frameworks for Private Enterprise and the Movement toward Co-regulation

Regulation, self-regulation and co-regulation

The development of regulatory frameworks to govern the operations of private enterprises in conflict and conflict-prone zones has mostly idled in the recent past—and this has only partly been due to regulators having shifted their focus towards the financing of terrorism. The primary reason is that there has been a great deal of fuss by stakeholder groups, governments and industry about whether voluntary—mostly self-regulatory—approaches are sufficient, or whether more mandatory regulation is needed. Major voluntary initiatives related to the 'business and conflict' nexus so far include: the UN Global Compact; the OECD Guidelines for Multinationals; and the Voluntary Principles on Security and Human Rights. Mandatory frameworks such as the as the OECD Anti-Bribery Convention are less common, and many are only remotely relevant to the conflict issue.

Advocates of voluntary self-regulation claim that it is more efficient, flexible and, on a pragmatic level, achievable. Voluntary measures, it is posited, are more likely to be integrated as corporate values: they establish a basis for co-operative relations between the would-be regulators and proactive businesses, and may even serve as a testing ground for eventual binding regulation. They are meant to balance the interests of business and society without expanding government intervention in the economy, and thereby to lower the cost of influencing and monitoring behavior. Self-regulation does not allow companies to be passive participants, or to place responsibility on governments, non-governmental organizations (NGOs) or international bodies such as the World Bank Group (WBG), whose own regulations are less than perfect. Binding regulation is accused by these same people of being at the mercy of state authorities to adopt and enforce, and of creating perverse incentives for evasion by rogue actors.

On the other side of the debate, proponents of mandatory regulations have countered that voluntary and self-regulatory measures lack clarity and coherence. The most skeptical see them merely as attempts to forestall tougher regulation: they are designed with a limited, unrepresentative group of stakeholders, suffer from weak enforcement mechanisms and, in any case, tend to be process-based not performance-based. The public is thus prone to misperceive simple adoption as meaningful action. Voluntary measures also tend to favor large multinationals over smaller players, particularly those from the developing world, whose participation remains meager. Free-riding by competitors, and defection, whereby a firm may self-regulate itself out of competition in a "race to the bottom", render voluntary commitments non-credible. Binding government regulation is deemed by its proponents more consistent, transparent and fair. It provides legitimacy to company measures, and levels the playing field.

With the distraction of the debate over the relative merits of mandatory regulation and voluntary self-regulation, and in spite of all the energy expended, surprisingly little progress has been made. Few regulatory frameworks deal explicitly with conflict, or else they deal with only a very specific aspect of it; for those that do even that, questions concerning monitoring and enforcement continue to persist. Effective monitoring and enforcement, it should be noted, are at least as important in voluntary frameworks as in mandatory ones.[1] The end result is that the 'voluntary-versus-mandatory' and 'regulatory-versus-self-regulatory' debates have become sterile, and of little relevance to the most recent developments in the field.

Practitioners point to the Kimberley Process Certification Scheme (KPCS), for instance, as an innovative combination of an inter-governmental framework of national controls with industry self-regulation (Banfield, Haufler and Lilly, 2003, p. 53). Furthermore, examples of Public Private Partnership (PPP) between government and industry, of which the most important is the Chad-Cameroon pipeline (see Box 3 on pp. 42–44), are also rendering the 'voluntary-versus-mandatory' distinction moot. "Co-regulation" occurs somewhere along the spectrum of regulatory and self-regulatory measures, where policies and programs are developed collaboratively between corporations, governments and, increasingly, civil society. They have been born out of the realization that, at the end of the day, both voluntary and binding regulations require the commitment of both national and international institutions on the one side and corporations on the other, if they are to succeed. We come back to the concept of co-regulation later in this chapter, and conclude with recommendations for moving the process forward.

It is worthwhile invoking again here the primary themes of the 'business and conflict' nexus: human rights; governance; and conflict commodities. In recognizing the importance of good community relations, private enterprise has typically aimed to mitigate human rights violations at the hands of security providers. They have endeavored to

redress state governance failure by managing corruption and bribery through the transparency of payments. With regards to the role of conflict commodities in financing and perpetuating war, certification has dominated the agenda. Other approaches represent attempts to encompass all of these issues in a catch-all multi-issue framework. In this chapter, we will discuss these themes in detail, and broaden the discussion to include a role for the institutions that finance projects in conflict and conflict-prone zones.

The following survey of frameworks is structured by the above themes, as opposed to by an adherence to the traditional and increasingly outdated 'voluntary-versus-mandatory' dichotomy. Though sanctions may be interpreted as regulated corporate conduct, they remain in a class by themselves—they aim to temporarily interrupt corporate activity, not to guide it. They are therefore treated in a separate chapter in this *brief*. There are also a plethora of internal corporate codes of conduct—usually referred to collectively as Corporate Social Responsibility (CSR) initiatives—some more tailored than others to the conflict problem.[2] These are beyond the scope of the present chapter. The following survey provides only a sampling of industry, or sectoral, and global norms, chosen on the basis of their perceived success, or potential for success, in shaping conflict-sensitive business operations.

Multi-issue frameworks

The UN Global Compact

At the 1999 World Economic Forum in Davos, Switzerland, UN Secretary General Kofi Annan proposed a pact between the UN and private enterprise which resulted, in July 2000, in the Global Compact (GC). In addition to the UN Secretary-General and a host of other UN institutions, the process has benefited from the participation of several large international human rights and environmental NGOs (Amnesty International and the World Wildlife Fund, amongst others), international trade associations, trans-national companies (TNCs), and international enterprise associations. Though not a regulatory framework in the strict sense—since it avoids giving any detailed directives—participating companies voluntarily commit themselves to a number of principles. The original nine principles, dealing with human rights, labor and the environment, have also since been expanded to include one on transparency. There are now GC networks in around 50 countries, and roughly 2400 enterprises have signed up as "Partners of the UN".[3]

The application of these principles to crisis prevention and conflict resolution is perhaps more direct than might initially appear. When a company concerns itself with human rights and the rights of its employees, and endeavors to promote a sustainable environment, then it avoids the conflict that neglect of these rights, or destruction of the environment, might

Figure 1: Principal frameworks surveyed in this paper

Theme	Framework
Multi-issue	UN Global Compact OECD Guidelines for Multinational Enterprises UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights
Human rights	Voluntary Principles on Security and Human Rights
Governance	Publish What You Pay Extractive Industries Transparency Initiative
Conflict commodities	Kimberley Process Certification Scheme Forest Stewardship Council Certification
Financing	Extractive Industries Review Equator Principles

engender. In post-conflict situations, the same respect for rights and the environment can lead to fortification of the rule of law and consolidation of peace. That being said, the GC could easily be broadened to account more explicitly for conflict-prevention.

Some GC activities go precisely in this direction. On the GC website, conflict prevention features prominently on a page devoted to themes like "Conflict Impact Assessment", "Multi-Stakeholder Initiatives", "Revenue-Sharing Regimes" and "Transparency". One is greeted by the assertion that "corporations can make an important contribution to conflict prevention and resolution." So-called Policy Dialogues have tackled specific topics such as "The Role of the Private Sector in Zones of Conflict". The latter "provides a dynamic forum where representatives from companies, NGOs and trade unions identify key issues and concrete actions pertaining to the role of the private sector in these areas. … This dialogue explores ways and means by which business and other actors of society can contribute to, avoid and overcome conflict."[4]

The 2000–2002 "Dialogue on the Role of the Private Sector in Zones of Conflict" has had some concrete consequences: International Alert (IA) and the Canadian NGO International Institute for Sustainable Development (IISD) have taken the Business Guide on Risk Assessment forward into a comprehensive Conflict Risk and Impact Assessment (CRIA) methodology. The "Conflict-Sensitive Business Practice: Guidance for Extractive Industries" provides "guidance on doing business in societies at risk of conflict for field managers working across a range of business activities, as well as headquarters staff in political risk, security, external relations and social performance departments."[5] It includes a screening tool for early identification of conflict risk, both macro-level and project-level CRIA tools, and special guidance on "key Flashpoint Issues where conflict could arise".[6] The Conflict Sensitive Business Practice (CSBP) Guidance is the most up-to-date and comprehensive prescription available, covering a gamut of issues, from so-called Dutch Disease to construction camps, at the most critical junctures in project management, from geological investigation and pre-feasibility to closure. It remains to be seen whether the CSBP guidelines are embraced and applied by the industry voluntarily, whether they shape government regulation, or whether—and perhaps most hopefully—they serve to clarify the language and parameters of future PPP arrangements between business, government and other stakeholder groups.

In the context of the above-mentioned Policy Dialogue, an Expert Workshop on "Identifying Public Policy Options to Promote Conflict-Sensitive Business Practices" was held on 13 December 2004. Much of the discussion revolved around potential implications of the recently published High-Level Panel Report on "Threats, Challenges, and Change" for the work of the GC on conflict issues. There was general consensus among the participants that governments needed to find a way to reward good corporate performance. More concretely, they suggested that government economic agencies should "use their leverage to change the incentives for the private sector, by adding conflict corruption, and human rights considerations into the review of project proposals."[7] High-level representatives of the business community, governments, UN, civil society and academic and public policy circles came to many of the same conclusions at the subsequent Symposium on "Strengthening Conflict-Sensitive Business Practices in Vulnerable and Conflict-Affected States", which took place on 14 December 2004 at UN Headquarters. In its recommendations to the UN, the expert panel also suggested that the issues raised by 'business and conflict' required "a dedicated home with the UN to address them, and a more prominent position on the UN agenda", including the organizing of a global conference on the topic.[8]

The GC is an open forum, open to all companies that express a willingness to begin incorporating some of its principles within day-to-day operations. It is, for this reason, subject to the criticism that unscrupulous firms might declare intentions to join the GC and improve their image through relatively simple measures (picking and choosing the principles they wish to adopt, ignoring others). Related to this, the GC has been criticized for weak monitoring mechanisms. Companies are expected to file annual "Communications on Progress", describing how they are supporting the Global Compact and its principles, but there are two problems with this "requirement". First, conflict prevention is not explicitly a principle. Consequently, though the website states that "The Global Compact strongly encourages companies to share their experiences operating in zones of conflict by entering relevant examples and developing case studies to contribute to our online learning databases," such encouragement has not resulted in consistent reporting from the private sector on this topic.[9] Second, even if conflict prevention were one of the ten principles, nowhere does it state in the communications guidelines that the company has to report on all ten of these. The participant may choose to discuss only those which it deems most innocuous. Experience from efforts in the health sector to preclude the participation of tobacco companies suggests that it is difficult to prevent even the most controversial companies from joining the GC, never mind to remove them after the fact.

It is worth mentioning here that other UN initiatives have some bearing on the 'business and conflict' nexus. A working group of the UN Commission on Human Rights (UNCHR) has drafted "Norms on the Responsibility of TNCs

and Other Business Enterprises with Regard to Human Rights", with specific attention to conflict zones. This initiative is described in further detail below. Additionally, the International Labour Organization (ILO), already an important standard setter for TNCs, has recently published "Business and Decent Work in Conflict Zones: A 'Why?' and 'How?' Guide".

The OECD Guidelines for Multinational Enterprises

Existing in their current form since 2000, the OECD Guidelines for Multinational Enterprises (hereafter, OECD Guidelines) are recommendations addressed by governments of 30 member and 9 non-member countries to multinational enterprises operating in or from adhering countries. The OECD Guidelines provide "voluntary principles and standards for responsible business conduct in a variety of areas including employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation."[10]

National Contact Points (NCPs), the main implementation mechanism and novelty of the OECD Guidelines, provide an avenue for "interested parties" to file complaints of non-compliance against companies. The NCP reviews the legitimacy of the complaint, and attempts to arrive at a settlement between the parties. If no agreement is reached, the NCP may make recommendations on how to best achieve compliance, or else request a "clarification" to the Guidelines from the OECD Investment Committee. In contrast to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, their decisions are not binding. Normally, the most severe sanction is one of "naming and shaming". In defense of this approach, the website states that "the assumption is not that enterprises need to be ‚controlled' but that internationally agreed guidelines can help prevent misunderstandings and build an atmosphere of mutual confidence and predictability between business, labour and governments."[11]

The OECD Guidelines improve upon the GC in that they provide for clear and transparent procedures for monitoring company behavior. The NCPs gather information on national experiences with the Guidelines and reports annually to the OECD Investment Committee, which reports in turn to the OECD. However, another formidable hurdle remains to be overcome: clarification on operating in conflict zones. The OECD Guidelines provide useful guidance for companies operating in countries where local laws, regulations or institutions are weak, but there is no specific mention in the text itself of zones of conflict. As elsewhere, it is only implied in the treatment of human rights and environment.

The OECD has, outside of the Guidelines, presented an explicitly conflict-related document on "Multinational Enterprises in Situations of Violent Conflict and Widespread Human Rights Abuses" (OECD, 2002). This paper is limited to the extractive industries, and dedicates itself to two themes: "Conflict and Human Rights Violations in the Vicinity of Company Operations" and "Means and Motives—Multinational Enterprises (MNEs) and the Broader Logic of Violent Conflict and Human Rights Abuses." The former addresses, amongst other things, resettlement, security precautions and compensation questions. It invites companies to improve management in the immediate vicinity of their operations, especially of security forces. The latter deals with the general relations between conflict and private enterprise presence, noting a role both in cause and possible remediation. It also provides positive examples of how MNEs can be active in conflict prevention, citing "transparency in contracting between oil companies and host governments", "anti-corruption initiatives", "anti-money laundering initiatives" and "socially responsible investment funds". As for specific recommendations, it only refers to the OECD Guidelines.

In its Network on Conflict, Peace and Development Co-operation, the Development Assistance Committee (DAC) of the OECD also contributes to the topic via its "DAC Guidelines Helping Prevent Violent Conflict", with a short three-page section on "working with business".[12] The latter promotes the concept of codes of conducts, legal frameworks and corporate governance regimes such as the OECD Guidelines for Multinational Enterprises, OECD Principles of Corporate Governance, and the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions. It also promotes the use of peace and conflict impact assessments, but again, gives no specifics on how this might be done.

The UN norms for transnational corporations

The "UN Norms on the Responsibilities of Transnational Corporations and Other Enterprises with Regard to Human Rights" (the UN Norms) were developed by the UN Sub-Commission on the Promotion and Protection of Human Rights, under the UN Commission for Human Rights. In the draft document of 13 August 2003, nineteen recommended norms, with comprehensive implementation guidelines, are enumerated. Corporations are called upon to apply and incorporate the UN Norms in their arrangements with contractors, subcontractors, suppliers, licensees and distributors. These fall within six broad groupings of rights, including: equal opportunity and non-

discriminatory treatment, the rights of workers, respect for national sovereignty and human rights, consumer protection, environmental protection and the right to security of persons.

Under the rubric "right to security of persons", the UN Norms state: "Transnational corporations and other business enterprises shall not engage in nor benefit from war crimes, crimes against humanity, genocide, torture, forced disappearance, forced or compulsory labour, hostage-taking, extrajudicial, summary or arbitrary executions, other violations of humanitarian law and other international crimes against the human person."[13] Also of relevance to conflict, and in the name of "respect for national sovereignty and human rights", the UN Norms insist that transnational corporations shall refrain from "any activity which supports, solicits, or encourage States or any other entities to abuse human rights" and "shall further seek to ensure that the goods and services they provide will not be used to abuse human rights."[14] In spite of the diplomatic language, clearly this has much more to do with non-complicity in the human rights abuses of a sovereign nation than it does with respect for national sovereignty. Similarly, these human rights are defined fairly broadly to include notions of corruption and bribery, so that, in spite of their title, the "Norms on the Responsibilities of Transnational Corporations and Other Enterprises with Regard to Human Rights" is really a multi-issue initiative.

The UN Norms have garnered considerable attention, particularly in the Corporate Social Responsibility (CSR) literature, since they constitute the first internationally accepted initiative governing all enterprises, not just those that participate voluntarily. Although they are not drafted as a legally binding treaty, they are similar to many other UN declarations, principles, norms, guidelines, standards and resolutions that interpret existing international law and summarize international practice. The legal impact of the UN Norms is felt through the underlying treaties and other instruments covered therein, such as the Convention on the Prevention and Punishment of the Crime of Genocide, or the International Covenant on Civil and Political Rights, to name just two.

The UN Norms have the advantage over the GC that the corporate responsibility in that a transparent and independent monitoring process by the UN and by other international and national mechanisms is provided for. A complaint and settlement mechanism is also envisaged whereby, in the case of transgressions, even reparations, restitution, compensation and rehabilitation are to be paid to those persons, entities and communities affected by any failure to comply with these Norms. Numerous NGOs (most notably Amnesty International, Human Rights Watch and Oxfam) are calling for support of these as an important and logical extension to the non-binding GC.

Opposition from the private sector, when it is voiced, has been through the mouthpiece of the International Chamber of Commerce, the International Organisation of Employers and its American branch organization, the US Committee for International Business. No individual firm appears willing to take a public stance against what is widely accepted as a critical initiative for social responsibility (Weissbrodt, 2004a, p. 197). The US government, on the other hand, has been quite vocal in its opposition, with representatives calling the initiative "doomed from the outset", and arguing that "[w]here human rights abuses are widespread they are the result of either action or inaction of States, not generally by private enterprises." On 20 April 2005, by passing what it no doubt perceived as politically moribund UN Norms, the UN Commission on Human Rights (UNCHR) called on the UN Secretary General to appoint a Special Representative to identify and clarify existing issues related to business and human rights. On 28 July, UN Secretary-General Kofi Annan named John Ruggie to this position.

While this comprehensive, multi-issue initiative has unfortunately floundered due to political opposition, other, more specific initiatives seem to have fared better. We will now examine codes of conduct designed with a more narrow focus on human rights and security, governance and transparency, or conflict commodities and finance.

Human rights

The Voluntary Principles on Security and Human Rights

The "Voluntary Principles on Security and Human Rights", inaugurated in December 2003, offer guidelines for security management which are not restricted to zones of conflict, but are of course of particular interest in them. In the absence of any internationally accepted rules for firms contracting security services, the US and UK governments initiated an ongoing collaborative dialogue between six governments, 16 major domestic

Congolese banknote

companies involved in the extractive and energy sectors (including Anglo-American, British Petroleum, Rio Tinto and Shell), and nine major NGOs (among them, Amnesty International, Human Rights Watch and International Alert). The International Committee of the Red Cross enjoys observer status. The goal was to develop a "set of voluntary principles to guide Companies in maintaining the safety and security of their operations within an operating framework that ensures respect for human rights and fundamental freedoms".[15] Put another way, the challenge remains to be "to balance the companies' legitimate need to meet real security threats in certain countries with NGOs and local communities' insistence that company security arrangements respect human rights" (Freeman, 2003, p. 33).

The Voluntary Principles on Security and Human Rights recognize that companies have a legitimate need to establish adequate security, by contracting either state security agencies or private security services. But implicit in this need is the recognition that corporations must not and cannot protect their assets at the expense of the surrounding community. Quite to the contrary, the very premise of security is based on the well-being of the surrounding community of stakeholders. Security remains the primary responsibility of the state, but beyond abiding by local and national laws, the Voluntary Principles push companies to accepted international standards of human rights and security and—in the absence of such standards—to building them proactively.

The Voluntary Principles comprise three major sets of issues:

- Criteria that companies should consider in assessing the risk of their security arrangements
- Relations with private security forces
- Company relationships with public or state security forces.

Specifically, companies are cautioned to consider the potential for future violence and conflict in their risk assessments, requiring the identification and understanding of the patterns of violence and root causes and nature of local conflicts. The Voluntary Principles suggest that companies consult regularly with home and host governments, local communities, civil society, and with other companies about the impact of the company's security arrangements. They should communicate their policies of transparent, ethical conduct and respect for human rights, and promote it to public security providers and host governments. Companies are encouraged to use their influence to shape public security forces, most generally through human rights training and education, but also by weeding out and reporting individual human rights abusers to local authorities. Where private security is required, companies are called upon to observe the laws and professional standards of both home and host countries, as well as international guidelines such as the UN Code of Conduct for Law Enforcement Officials and emerging best practices developed by industry, civil society and governments. Similarly to requirements in the public sphere, provide security providers should have explicit policies regarding how and when the use of force is justified, and record and investigate allegations of abuses. Ideally, they should employ staff that is representative of the local population.

Among some of the earliest companies to adopt the Voluntary Principles, "efforts to develop and implement the Principles have resulted in a greater recognition of the importance of integrating human rights into company risk assessment and security policies, which, for most businesses, have not traditionally extended beyond protecting their own bottom line" (International Peace Academy, 2002, p. 5). Still, the key problem for firms remains reconciliation of the sometimes conflicting goals of continued operations in the country and engagement of host governments on the sensitive issue of human rights. The challenges facing proponents of the Voluntary Principles therefore persist long beyond the solicitation of corporate participation and compliance. Host governments may be unwilling or unable to cooperate; national interests may block state commitment, or there may simply be a lack of prosecuting authority and judiciary capacity to hold accountable those responsible for human rights abuses. In these cases, a combination of pressure and support from powerful states and influential organizations is needed.

Governance

Publish What You Pay and the Extractive Industries Transparency Initiative

Launched in June 2002 by George Soros, the Publish What You Pay (PWYP) campaign is based on the common belief of over 280 world-wide NGOs that: "The call for companies to '*publish what you pay'* is a necessary first step towards a more accountable system for the management of natural resource revenues paid by extractive industry companies to governments in resource-rich developing countries. There is also a need for governments to *'publish what you earn*'. If companies disclose what they pay in revenues, and governments disclose their receipts of such revenues, then members of civil society will be able to compare the two and thus hold their governments accountable for the management of revenues. This will also help civil society groups to work towards a democratic debate over the use and distribution of resource revenues."[16]

The basic economic thrust of the argument is that, though private enterprise is in no position to tell governments what to do with their revenues, both government and enterprise should provide the information on which democracy—indeed, even capitalism itself—is dependent. At a minimum, proponents of PWYP seek international rules that obligate firms in the extractive sectors to make public all net payments to national

governments in all countries of operation, and in the national language. The PWYP campaign strives for legally binding obligations. Its teeth would be in the requirement of such transparency on the part of foreign-engaged firms to comply with their transparency guidelines in order to qualify for exchange trading or export credit, for example. Corporate participants of the International Peace Academy (IPA) meeting in 2002 expressed doubt, however, that activists would get the necessary support from securities and exchange regulators. And in any case, they maintain, non-publicly traded firms (including state-owned and parastatal) would not be affected.

Inspired in large part by the PWYP campaign, the Extractive Industries Transparency Initiative (EITI) was kicked off by British Prime Minister Tony Blair at the World Summit in Johannesburg in September 2002. Now driven by the Department for International Development (DFID), it "supports improved governance in resource-rich countries through the full publication and verification of company payments and government revenues from oil, gas and mining." It recognizes that when governance is weak, these revenues may cause "poverty, corruption, and conflict—the so called 'resource curse'."[17] Nearly 20 countries have either endorsed the EITI principles or have already begun the initial phases of implementation. Among the later are: the Republic of Congo, Nigeria and Timor Leste. Angola, Chad and Sierra Leone are said to be presently considering how they will implement. Among extractive companies backing the EITI are many of those subscribing to the Voluntary Principles: Anglo-American, British Petroleum, Rio Tinto and Shell. Notably, Talisman Energy is also participating. Implementation requires regular publication of all material payments (by companies) or revenues (of countries) "to a wide audience in a publicly accessible, comprehensive and comprehensible manner."[18] A number of large NGOs on board, of which the most active are the Catholic Agency for Overseas Development, Global Witness, Open Society Institute and Transparency International. The International Monetary Fund (IMF), the World Bank (WB) and the Organisation for Economic Co-operation (OECD) are also partners.

In contrast to the essence of the PWYP initiative, support for the EITI is by voluntary endorsement. The voluntary nature is defended, not surprisingly, by the corporations. At the same time, out of concern over companies from the developing world, they emphasize the need for the same standards to apply to all. Both the PWYP and EITI aim to compensate for the inadequacy of other transparency norms. For instance, we have already observed that the UN Global Compact is often denigrated as a "menu" of principles. The OECD Guidelines, for their part, cover only 33 OECD and 4 non-OECD governments, which may result in developed-world companies OECD-based companies being undercut by actors in the developing world in a "race to the bottom" of the transparency totem pole. Elsewhere, in the context of environmental sustainability, the Global Reporting Initiative (GRI) does not supersede confidentiality clauses, and very few companies currently report in accordance with its full set of standards. [19] Even more generally, The IMF Code of Good Practice in Fiscal Transparency suffers from a "should" vocabulary, lacking any proper monitoring and enforcement mechanisms. [20]

The problem for the EITI remains, according to Heidi Feldt, representative for the PWYP campaign in Germany, a question of what data to include, and to whom to make it accessible (Feldt, 2004, p. 197). At one end of the spectrum, the corporations would prefer to give aggregated data; at the other, PWYP and NGOs argue that anything less than disaggregated by country and available to all would defeat the purpose. In any case, Nicholas Shaxson (Shaxson, 2004, pp. 69–71) reminds us that PWYP "cannot capture all contractual revenue flows: under production-sharing contracts, host governments like Angola's own the oil under the ground, and they pay oil firms for their services—not vice versa. State oil firms can also mingle revenue flows from oil, refineries, gas, chemicals, petrol stations and state joint ventures with oil service companies, which are outside PWYP's scope." He mentions "downstream operations", such as refineries in Nigeria, as another source of resource that is difficult to control. Finally, he points out that "neither PWYP nor EITI tackles forms of corruption such as revolving doors and conflicts of interest. It is also outside their scope to assess whether investment costs in, say, an oilfield … reflect true market value or contain hidden subsidies that could generate bribes."

More hypothetically, it is unclear to what extent the PWYP or EITI might be applied to the non-extractive sectors, such as timber. The question is perhaps better posed in terms of what impact it would have on the shadiest actors, who choose not to sign on. When these rogue players are multitudinous and low-profile, other approaches may be necessary, such as certification.

Conflict commodities

The Kimberley Process Certification Scheme

The Kimberley Process Certification Scheme (KPCS) was conceived as a practical approach to stemming the flow of conflict diamonds by separating them from clean diamonds, and thereby lowering their demand and value on the consumer market. It is the result of a rare and probably the first successful instance of co-operation between NGOs, industry and government. The UN has also been involved in the publication and dissemination of Panel of Experts reports, through leverage on governments, and through formal endorsement of the KPCS. Since its inception on 1 January 2003, the KPCS has brought on board 45 export and

import states of raw diamonds, as well as the 15 states of the European Union. Its success has hinged on the participation, indeed the founding membership, of the major mining and trading states (Angola, Botswana, Canada, Russia, South Africa and the USA).[21] Its goals have been at once simple and effective: a worldwide certification mechanism to track diamond production, trade and sale from beginning to end. The intent was never to eliminate the sale of illicit diamonds, but to markedly curtail their profitability to criminals.

More specifically, the process relies on a "certificate of origin" and a "chain of warranties" system that provides an auditable trail linking diamonds to their mine of origin. Gems can only be traded when accompanied by a certificate issued by a state that is a member of the KPCS, and stating that the diamonds do not come from a conflict source. Producing states are required to take responsibility for the supervision of raw diamonds from the time of production to the time of export. All exports must be in sealed containers and accompanied by counterfeit-safe KPCS Certificates. At import and re-export, the seal and certificate must be examined. Import from and export to non-signatory countries is forbidden. Participation is voluntary, but compliance is mandatory and is enforced. The Kimberley Process Working Group on Monitoring monitors and assesses implementation of the Kimberley Process Certification Scheme by all participants. Meanwhile, the Kimberley Process Working Group on Statistics "ensures timely reporting and analysis of statistical data on the production and trade of rough diamonds in order to identify anomalies and to ensure the effective implementation."[22]

In spite of criticism from some quarters, primarily the NGOs, that the KPCS lacks an independent monitoring mechanism, diamond certification has been widely lauded as a success and as a model for future, enlightened co-operation between the various interested actors in business in conflict. Nonetheless, there is some cause for skepticism. Paes (2005) lists specific preconditions that have led to the apparent success of the KPCS and cautions that these may not exist elsewhere, for other conflict commodities such as coltan, oil and, as we will see later in more detail, timber:

- Diamonds play only a very limited role for the global economy.
- Diamonds are marketed to individual consumers and are bought for their symbolic value.
- The demands from civil society for reforms in the diamond sector coincided with dramatic changes on the global market (quasi-monopolist De Beers reoriented with a focus on the retail market).
- The civil wars in Angola, Sierra Leone, Liberia and the DRC provided the dramatic background necessary, with easy marginalization of armed groups.

Additionally, though a "chain of warranties" may be possible, "certificates of origin" are more problematic for other conflict commodities, where origin is not so easily testable. Even where replicability seems promising, obstacles to certification remain. For one, it requires implementation and compliance not only by industry actors but also by relevant governments. Also, the ability to verify that goods are in fact in compliance with specified standards through the entire supply chain requires effective and credible monitoring and enforcement by national customs agencies—capacities that many states are lacking.

International Peace Academy (2002) meeting participants were generally unreceptive to what they saw as unfairly punishing business for the behavior of states and armed groups. Acceptance of certification seems to depend critically on whether the extra cost can be passed on to consumers. Companies are also concerned about the fate of stocks of commodities acquired prior to certification, and about who "certifies the certifiers". They seem more amenable to "certification of procedure" rather than "certification of origin". Process certification, over which a company arguably has greater control, can still provide firms with a "seal of approval" with which to market themselves to investors and consumers.

Forest Stewardship Council Certification

Conflict timber is a relatively new concept amidst the expansive illegal logging literature, and remains an often-overlooked problem. Note that illegal timber is not always conflict timber, and conflict timber is not always illegal. Although there are several agreements that touch upon forest conservation and sustainable management, no specific treaty is ready to take on the issue of illegal logging, much less conflict timber. What is more, because the firms involved tend to be small, private and based in countries lacking strong civil societies, regulatory approaches developed with large, western-based multinationals in mind, such as the KPCS, may prove ill-suited to the problem at hand.

The Convention on International Trade in Endangered Species (CITES) provides the only existing international framework for the licensing of imports and exports of timber. Its relevance is restricted to endangered or threatened species. Indeed, only fifteen tree species are listed under CITES, while the World Conservation Monitoring Centre has identified over 300 traded species in Asia and Africa alone (Global Witness, 2002). Still, individual countries may unilaterally list any species that they wish to protect in Appendix III, and then trade cannot proceed without a permit. This gives consumer countries the possibility of refusing shipments of certain precious wood species that may have been illegally obtained in producer countries. But given the speed and scale of the illegal timber trade, critics do not think

that CITES alone can solve the problem of conflict timber. In its "The Logs of War: The Timber Trade and Armed Conflict", Global Witness (2002) proposes "certificates of legality" and chain of custody control mechanisms.

Founded in 1993, the Forest Stewardship Council (FSC) has been working to promote "environmentally appropriate, socially beneficial and economically viable management of the world's forests" through forest management standards, an accreditation/certification system and trademark recognition.[23] 47 million hectares of forest in 60 countries are certified to FSC standards, and over 10,000 FSC certified products are available worldwide. Its work has been characterized by an increasing recognition of the role that conflict can play in supporting forestry practices that are environmentally unsound, socially destructive and economically viable only in the context of a war economy. Their new guidelines for non-FSC certified but "controlled" wood (a somewhat less stringent standard) insist that so-called Forest Management Enterprises "shall not supply as controlled, wood harvested from forest management units where there are conflicts relating to long term tenure or use rights to the land and forest resources … and for which a resolution process has not been agreed by the main parties to the dispute."[24]

The limitation is that requirements are tested at the forest management unit (FMU).[25] There are, therefore, no specific rules against firms operating in areas where conflict has a source other than timber, nor with the support of a government that is committing human rights abuses outside of the FMU. In practice, however, this does not appear to happen—sustainable forest management is rarely on the agenda of any government waging war on its people, or on combatants in a given area, even if conflict is related to something else. Still, the fact that FSC forest management certificates have been handed to companies in Colombia, Indonesia, Russia, Sri Lanka, Uganda and Zimbabwe warrants some reflection on the topic.

FSC is also developing guidelines and a "risk register" for buyers of wood, to assist in the assessment of high-risk source areas. The so-called "minimum criteria for assessing high-risk forest areas" with respect to "violation of traditional and civil rights" include:

- A UN Security Council ban on timber exports from the country in which the district is located
- Conflicts of substantial magnitude relating to long-term tenure and use rights to the land and forest resources are taking place and which involve indigenous people in the forest area, or which involve a significant number of interests
- Country/district is a conflict timber area, where conflict is financed or sustained by the sale or timber

"Social conflict areas" are, however, only a small part of the assessment and these criteria still require considerable fleshing out. Sanctions, for example, are rarely timely and always politically charged, while terms like "substantial magnitude" or "significant number of interests" need to be defined. "Early-warning" indicators, particularly in governance—accountability, corruption, rule of law, financial transactions—should also be incorporated.

In January 2002, the Food and Agriculture Organization (FAO) hosted a meeting with representatives from governments, the International Tropical Timber Organization, the World Bank, NGOs and the forest industry, to exchange ideas on compliance and policy regarding forest crime.[26] The FAO is now examining ways of enhancing the contribution of forest corporations, whose participation has been lackluster. This begs the question: Why has corporate involvement not worked as smoothly as with diamond companies in the KPCS? Timber products probably have a greater importance to the global economy than do diamonds, but more importantly, paper lacks much symbolic value, and the industry is comprised of a much greater number of players.

It is worth noting that neither KPCS nor FSC certification integrates record-keeping or financial-control mechanism for the wire transfers or currency deposits that accompany the physical movement of goods. Financial institutions may have little awareness of certification regimes, and do not appear to take them into account in their anti-money laundering obligations. In the next section, we examine the significant role that financial institutions can play in ensuring that the business activities they finance do not aggravate the situations of conflict in which they find themselves.

Financing

Scrutiny of private sector activity in zones of conflict, and of its potential for financing war, has heretofore largely focused on companies in industries of resource extraction, such as diamonds. New initiatives have arisen recently out of the realization that the financial intermediaries lending to, investing in or otherwise supporting and facilitating these companies also need to be examined. These institutions include home-country banks, stock markets, insurance companies and export credit agencies financing home-country corporations, but should extend as well to include those providing finance and aid to host-country small and medium enterprises, or harboring "fugitive funds" of corrupt public officials, rebel groups and arms traders. Participants at an International Peace Academy meeting "stressed the importance of involving the major financial and insurance industries, which play a major role in providing capital and guaranteeing infrastructure and other project costs. Financial and insurance institutions must become more engaged in promoting good governance, both in their own operations and by creating incentives that reward good practices of the firms they finance" (International

Peace Academy, 2002, p. 10). International financial intermediaries such as the WB, IMF, and others, also undermine transparency when providing financing and loans for extractive industry investments without enforcing disclosure of payment and revenue information.

According to research at the International Institute for Sustainable Development (IISD) and the United Nations Environment Program (UNEP), "the key drivers moving violent conflict onto the agenda of the finance sector are concerns about the uncertainty and rising costs of extreme terrorist acts, threats to reputation, staff and investments, emerging regulatory and litigation threats, and opportunities for competitive advantage."[27] They maintain that "government-led regulation and multilateral action remain the principal tools to prevent and resolve violent conflict. That said, voluntary private sector activities are worthy of further exploration in areas where private and public interests are clearly aligned. There is a need to better understand the linkages for which a business case exists that creates incentives for voluntary action, and those linkages which result from market failure, where government intervention may instead be warranted."[28] Later in this chapter, we attempt to bring some illumination to this question.

The Extractive Industries Review

In spite of pioneering research into the link between conflict and extractive industries (see for example Collier and Hoeffler, 1998), the World Bank Group's (WBG) involvement in developing guidelines for corporations in zones of conflict has been limited. Banfield, Haufler and Lilly (2003) write that "the Bank is increasingly collaborating with the private sector in pursuing developmental goals, but these partnerships with TNCs have not been harnessed to contribute to conflict prevention and peace building. While Operational policy 2.31 does state a commitment to working with the private sector in conflict prevention, there are as yet few instances of this happening…" (Banfield, Haufler and Lilly, 2003, p. 49). A possible exception is the Chad-Cameroon Pipeline Project, though even the results there have been mixed (see Box 3 on pp. 42–44). And, to be fair, the first step in developing guidelines for corporations has quite rightly been the development of guidelines for itself, in its involvement in financing such projects.

In 2001, the WBG ordered an independent and comprehensive assessment of its activities in the extractive industries sectors—oil, gas, and mining. At the end of a two-year consultative process involving a broad array of stakeholders—companies, NGOs, trade unions, international governmental organizations, research institutes, local communities and the WBG itself—the Extractive Industries Review (EIR) (2003) produced a number of recommendations. Only indirectly applicable to conflict, the EIR focused on two key questions: How effective has the assistance and investment of the WBG been in helping advance sustainable development through the extractive industries? And what should the future role of the WBG be in this sector? The report "Striking a Better Balance" names pro-poor public and corporate governance and respect for human rights as two of three preconditions for helpful WBG interventions in the extractive industries (Extractive Industries Review, 2003, Executive Summary, p. 2).

On pro-poor governance, the report reads: "The criteria of governance adequacy should be developed transparently and with the involvement of all stakeholders. It should include minimum core and sectoral governance criteria, such as the quality of the rule of law; the absence of armed conflict or of a high risk of such conflict; respect for labour standards and human rights; recognition of and willingness to protect the rights of indigenous peoples; and government capacity to promote sustainable development through economic diversification." It suggests a greater need to engage in dialogue "with communities and groups directly affected by projects in order to obtain their prior and informed consent", and the establishment of revenue sharing arrangements with local communities. On human rights, the EIR promotes as essential the creation of a Human Rights Unit, with regional counterparts, together with "a clear policy and a mandate for monitoring, verification, and transparent annual audits" (Extractive Industries Review, 2003, Executive Summary, p. 5).

The September 2004 "WBG Management Response" to "Striking a Better Balance" came out in favor of "a majority" of the recommendations put forward by the EIR (World Bank Group, 2004). It did not, however, accept that anything less than full implementation of all recommendations would be a failed response. For example, one of the most controversial implications, that the WBG phase out its support for new investments in the oil and coal sectors, was flatly rejected. The Management Response was also not favorable to a veto power for individuals or any group, but conceded that greater consultation with affected communities was necessary. Other recommendations, such as requiring revenue transparency as a condition for new investments in extractive industries, had already been addressed in initiatives such as the EITI. In the context of preserving the high value of some biodiversity resources, they supported the principle of "no-go" zones in the world for new extractive industry investments. Unfortunately, the potential for similar no-go conflict zones was overlooked—indeed, in spite of obvious relevance, the executive summary of the final report makes no mention of the word 'conflict' at all.

Box 2: Lundin: Oil Exploration and Conflict in Sudan

Sudan gained independence from the United Kingdom in 1956 and has been embroiled in civil war virtually ever since. From 1983 and until only recently, fighting was largely concentrated in the south, involving the primarily Arab and Muslim Government of Sudan (GOS) and the Sudan People's Liberation Army (SPLA), which is African and Christian. In February 1997, in this complex political climate, the Swedish concern Lundin Petroleum obtained the rights to explore for and produce oil and gas in concession Blocks 5A and 5B, located in Unity State on the West Bank of the White Nile. Within four years, as operator of the Lundin Sudan Limited consortium, it announced an estimated billion barrel find at the Thar Jath location.

One of the root causes of the Sudan civil wars has been "the exploitative nature of the central state towards its rich, but uncontrolled hinterland" (Johnson 2003, p. 7). This explanation is usually widened by pointing towards ethnic and, in some cases, religious polarization. The latter has certainly been an important element in the latest years of civil war, but cannot explain the conflict by itself (Johnson 2003, p. 2). The discovery of oil has intensified the struggle over the control of scarce resources; especially in the last five years; according to UN figures, the combination of famine, disease and war has left 2 million people dead and 4 million displaced.

The international NGO Human Rights Watch (HRW) asserted in 2003 that "oil now figures as an important remaining obstacle to a lasting peace" (HRW 2003, Summary, p. 1). Conversely, a spokeswoman for Lundin maintains that "it was only after oil was produced that (…) an active, internationally mediated peace process began" (Batruch 2004, p. 149). These conclusions need not be as contradictory as they might appear at first; oil gives the international community an added incentive to pursue peace, but may make it more difficult for local communities to live in it. Nonetheless, what is most important to take from the Sudan example is how public relations posturing on both sides of the 'business in conflict' debate can not only result in the fact that fact become muddled but interventions equally.

The main point of contention among those NGOs arguing for a suspension to oil activities in—if not complete withdrawal from—Sudan is related to the forced removal of populations from the Western Upper Nile region. The uncompensated and often violent displacement of thousands of indigenous tribe members by either government forces or government proxy militias has been undertaken in the name of providing security to oil operations: "Campaigns of killing, pillage, and burning, enabled by government troops and air support (…), cleared the way for Western and Asian oil corporations to develop the basic infrastructure for oil extraction and transportation: rigs, roads, pumping stations, and pipelines" (Human Rights Watch 2003, Summary, p. 1). Indeed, oil exploration has been accused of being devoid of any benefit whatsoever for local populations.

In its own defense, Lundin states that on its very first visit to the concession area it met with "key representatives of the local community and that these "welcomed oil activities as the only way to promote long-term economic development in their area" (Batruch 2004, p. 150). However, by 1999, in a socio-political assessment of the area, Lundin itself noted that "in view of the limited positive benefits of the oil activities at the time—revenues were not expected for a number of years, since activities were at the exploratory stage—there was a distinct possibility that the local communities would grow disgruntled." (ibid., p. 151). Employment of the local population remained minimal in spite of a targeted 50 percent of total staff within five years of the commencement of operations. The company's response was the launch of the Community Development and Humanitarian Assistance Program (CDHAP). US $1.7 million were spent over the final three of the seven years that Lundin was operating in Sudan, on such things as fresh water delivery, educational materials, school construction, medical and veterinary clinics, a mobile brick factory, a women's development center and technical training services.

Also of concern in the context of the forced removal of populations has been government use of oil revenues for militarization. These have eased economic constraints on the GOS and made the continuation of forced removal and war an affordable alternative to negotiation and peace: "Oil revenues enabled the government to increase its military hardware; it tripled its fleet of attack helicopters in 2001 with the purchase abroad of twelve new helicopters—used to deadly effect in the killing of twenty-four civilians at a relief food distribution site in early 2002" (Human Rights Watch 2003, Summary, p. 2). Though not as fungible as money, physical assets constructed by oil companies in the region, such as airstrips, roads and bridges, have also facilitated GOS-initiated assaults on its own citizens. In a press release, the president of Lundin admitted the presence of "small camps of soldiers every 4–5 kilometres" along a Lundin-built road, but insisted that these were a "preventative force, protecting oil companies and nearby civilians from rebels who have declared oil companies, their sites and staff, legitimate military targets."[1]

Lundin admits that "negative perceptions of the effects of oil operations" encouraged it to develop its own Code of Conduct, which added socio-political aspects to its erstwhile economic mandate. The adoption of the Code was reinforced by an awareness session, a human rights primer and information to security personnel about the Voluntary Principles on Security and Human Rights for the Extractive Sector. In practice, however, this security personnel was never allowed to leave

Lundin premises. It therefore had nothing to do with the gross human rights violations committed by government forces, nor could it undertake any action to monitor or prevent these violations. The value of such a human rights training, and the effect of a Code of Conduct was therefore highly questionable in this particular case.[2]

In June of 2003, after seven years of operations, punctuated twice by cessation of operations due to security concerns, Lundin sold its share to the Malaysian firm Petronas for multiple times the value of its investment. Company officials insist that the decision was not a result of external pressures, but of the instability of the situation on the ground.[3] The 9 January 2005 signing of a comprehensive peace agreement by the GOS and the rebel SPLA has officially ended 21 years of war. Yet progress in the South has managed to detract from nearly two years of fighting in the western region of Darfur—a humanitarian catastrophe, which only recently has captured the world's attention.

[1] Lundin Oil AB press release, "Sudan: Lundin Oil refutes the allegations", Geneva, April 3, 2001.

[2] BICC phone interview with European NGO worker, 1 February 2006.

[3] BICC interview with Lundin Oil, 8 January 2004, Geneva, Switzerland.

The Equator Principles

Launched in June 2003, the Equator Principles (EP) are a voluntary set of guidelines for managing social and environmental issues in project finance. Adopted now by some 37 financial institutions, membership covers a good part of the global project finance market.[29] Under the principles, adopting banks commit to screening all proposed projects over US $50 million on the basis of their social and environmental risk. Those posing the greatest anticipated risks require a detailed assessment, to identify and mitigate them. The banks agree to "not provide loans directly to projects where the borrower will not or is unable to comply with our environmental and social policies and practices". If plans are not followed and problems not remedied by borrowers, banks can declare the loans in default. Financial institutions do not, however, sign an agreement. They need only declare that they have or will put in place internal policies and processes that are consistent with the EP.

Of most concern in the screening process are Category A projects—those "likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented."[30] A potential impact is considered 'sensitive' if it may be irreversible (leading to the loss of a major natural habitat) or affect vulnerable groups or ethnic minorities, involve involuntary displacement or resettlement, or affect significant cultural heritage sites.[31] Category B impacts are site-specific; few if any of them are irreversible; and in most cases mitigating measures can be designed more readily than for Category A projects. A proposed project is classified as Category C if it is likely to have minimal or no adverse environmental impacts. Beyond screening, no further Environmental Assessment (EA) action is required for a Category C project.

For Category A and B projects, the EA must address, amongst other things: sustainable development and use of renewable natural resources; protection of human health and cultural properties; socio-economic impacts, especially those on indigenous peoples and communities; and participation of affected parties in the design, review and implementation of the project. All of these are issues that, though expressed here in an environmental context, have applicability to the theme of conflict. Certainly, there is room to formalize an as yet underdeveloped "social" component to include the role of conflict in sustainable development. But even in their current state, the EP serve as yet another example of how the problem might be tackled.

While positive first steps, the usual criticism of a lack of monitoring and enforcement mechanisms has been raised with regard to the EP. Still, perhaps financial institutions—presumably armed with a better understanding than most of economic incentives—can serve as a model for other industries. And even if they prove no more adept at self-regulation than the non-financial sector, they can certainly still assist the latter. The FTSE4Good Index, for instance, has introduced Human Rights Criteria to screen resource extraction companies for inclusion in its popular index of ethical companies.[32] These and other so-called Ethical or Green Funds, though largely demand-driven by an increasingly broad and socially conscious investing public, are good examples of the market-based solutions that the financial sector can provide to the 'business and conflict' problem.

Assessment of existing frameworks

The above survey of the existing frameworks highlights two major failings, common to both their voluntary and mandatory forms. First, few explicitly address the behavior of a business operating in zones of conflict, often leaving it to the corporation to conclude how human rights and the environment, for example, relate to conflict. This oversight is remedied to some extent by International Alert's and IISD's recent "CSBP Guidance", which helps firms to make these links in practical terms. These connections still need to be formalized in the frameworks themselves, however, if compliance is to be enforced. Related to this, second, the mechanisms for monitoring and enforcement, particularly in relation to the economic power of the TNCs, may simply be too weak. The countervailing power of civil society, as will be discussed in the chapter on the role of NGOs, has only partly succeeded in filling the void. But monitoring and enforcement also remain weak because private enterprise cannot realistically be held accountable for conflict-sensitivity until its parameters are properly defined and its indicators quantified.

In a report prepared for the Department of Foreign Affairs and International Trade (DFAIT) Canada, Jason Switzer and Halina Ward identify three principal gaps in the current state of voluntary frameworks: the knowledge gap, the consensus gap and the participation gap (Switzer and Ward, 2004, p. 57). In the first case, they maintain that many issues in the relationship between business and violent conflict have not been adequately researched. In the second, they refer to polarized stakeholder groups, who cannot agree on appropriate norms for decision making. The final gap alludes to the heretofore limited direct engagement of developing country stakeholders in shaping the business and conflict agenda, and to the undermined legitimacy of existing initiatives. The filling of these gaps will likely proceed slowly. Moving forward, in the short- and medium-term, we are most likely to see some fine-tuning of existing voluntary norms. This need not preclude companies from officially including these voluntary norms in international contracts, however, whether with governments or other private sector agents, and thereby

making them de facto legally binding: "The gradual adoption of such a practice by an increasing number of corporations might eventually make it possible to transform voluntary undertakings into a universal legal obligation" (International Peace Academy, 2001, p. 12).

But a longer-term problem with existing frameworks, both voluntary and mandatory, is that they avoid one of the hardest questions. Virtually nothing has been said about corporate philanthropy in the context of the provision of schools, hospitals and other public goods which have nothing to do with the core operations of the firm. While these social investments seem harmless enough, they raise a host of questions about the role of the corporation and its executives in influencing or even setting social policy in (often undemocratic) countries. Furthermore, macro-level issues like dependence on primary commodity exports, for example, require a critical reassessment of the role of the private sector in development in general. In particular, is the pace of development appropriate, and if the pace of business development exceeds that of the social institutions around it, causing potential for conflict, can the two ever be reconciled?

These are challenges that cannot be overcome by corporations or governments alone. They require collaborative efforts between the two, facilitated by the involvement of civil society. Each has a part to play, and each should play the part for which it is most suited. In the next section, we attempt to clarify these roles. We have already outlined why some frameworks may not be appropriate in certain sectors or for a particular source of conflict. We now take a step back, and ask not what an international framework for corporate conduct in zones of conflict should look like, but rather, how it should be developed coherently, and by whom. The question then is not regulation versus self-regulation, but what will the newly emerging trend of co-regulation look like?

Towards co-regulation

True also to its form, the substance of a recent and widely read survey in the Economist[33] reiterates all the classic lines from basic economic thought: The purpose of private enterprise is to make profit for shareholders. Self-interested profit seeking leads to a greater public good. Corporate Social Responsibility (CSR), in contrast, results in inefficiencies and "borrowed virtue" from shareholders. One practical implication is that it should therefore be up to the elected representatives in government to regulate the rules of behavior and maximize social welfare, not to corporations or their executives. The other is that policy-makers should be wary even of profitable corporate social responsibility—it is invoked more often as a rationale for anti-competitive practices. We will now briefly suggest why this conventional wisdom need not hold in the specific case of the regulation of corporate conduct in zones of conflict.

Extrapolated to the specific instance of CSR under discussion in this paper, the above position asserts that government bodies, national or international, may be best suited for developing norms governing conflict commodities, for example. But this need not be always the case. CSR for domestic and international operations may be two different beasts altogether. For one, international CSR plays out in a forum of sovereign nations. National government regulations for home country corporations are impotent in the face of host-country resistance or non-cooperation. International agreements rarely fare much better when it comes to enforcement. And what about when shareholders are entirely outside the host nation? That is, when negative externalities (e.g. environmental degradation, social instability) are born entirely by people outside the circle of firm ownership? Even democratically elected—indeed, *especially* democratically elected—home-country governments may not have the incentive to regulate for the global good. So government regulation can only be part of the answer. The other part might in fact include part of what The Economist maligns as "borrowed virtue", as we will now argue.

In spite the warnings from some quarters, social investment, a form of corporate philanthropy, has not only infiltrated the business world, it has become a business in itself. In many countries, the building of schools and hospitals has somehow become the domain of the corporation. Shell Petroleum Development Company of Nigeria admits that voluntary social investment might not be so voluntary after all: "For Shell therefore, social investment is not an option but a requirement. It forms the basis for a social contract with the communities. It is an investment, not a cost; reduces project and corporate risk; helps secure the license to operate; increases the license to grow; is a competitive advantage" (Shell, 2004, p. 151). Note, however, that enhancing competitive advantage is not the same as promoting anti-competitive practices. Though prior experience in implementing corporate

Oil facility in Niger Delta, Nigeria.

codes that mitigate the risk of conflict might provide a competitive advantage vis-à-vis their business rivals, it can also provide an opportunity for others inside the industry, or even outside. And if the behavior of one firm affects the operating environment for all, the CSR pioneers may even be encouraged to share their CSR experience. So surely there are instances in which a company will engage in CSR that is both profitable and not anti-competitive. When CSR initiatives lead to common, pan-industrial codes of conduct, it is perhaps more appropriate to speak, as we will, of industry self-regulation than of CSR.

In "A Public Role for the Private Sector: Industry Self-Regulation in a Global Economy", Haufler (2001b) lists factors leading to industry self-regulation:

1. A high risk of government regulation. This may occur at the national, host or home country, and international level

2. Relatively low economic competition but high asset specificity. Companies are less compelled to engage in a race to the bottom, and since they cannot move, are prone to be targeted by activism and government regulation.

3. A high probability of transnational activist pressure. The chances of being targeted are highest in extreme situations involving violence, such as civil war.

4. Reputation is key asset of the company or industry involved. The resulting "race to the top" can occur in marketing, employee recruitment, business-to-business relations and government relations.

5. High levels of information exchange, learning, and consensus within the industry. Where some agreement over appropriate norms and standards already exists, managers are more likely to self-regulate.

6. Industrial structure and cost of self-regulation. Oligopolistic markets might be the most likely candidates for self-regulation, because it is easier to get consensus amongst a smaller number of firms (Haufler 2001b, pp. 20–30).

Similarly, Berman (2000) presents five variables that affect whether an MNC will operate in a country affected by conflict (or, put another way, that determine the extent to which conflict could affect profitability): geographic impact of conflict; severity of conflict; the role of government and opposition in conflict; characteristics of the industry; and investment level and structure (Berman, 2000, pp. 28–33). Self-regulation is more likely when effects of conflict on profitability are potentially high, but the company proceeds anyway. In other words, self-regulation is more likely when: conflict is close, concentrated and severe; the government is weak and rebels are coordinated (or vice versa, depending on who controls the area of operations); the good is image-sensitive and lootable; and investment is direct as opposed to through joint ventures or the like.

The factors leading to a company's willingness to co-regulate are probably the same as those listed above—with an important addition. If a company, or group of companies, is to opt for the added costs in time, effort and resources of negotiating with government (provided of course it is given the choice), then there must be a more-than-offsetting benefit to co-regulation. That is to say, firms must see some benefit to having government representatives present at the table. One of the services that governments may render is providing credibility to the process—a credibility that is sorely needed by many of the firms and industries whose not so distant histories have been less than spotless. Furthermore, governments can facilitate adoption of norms of conduct through subsidies, tax-credits, privileged contracts, consumer awareness, so-called "white-lists" and diplomatic pressure on host governments, including aid conditionality. In this way, they serve to rectify the co-ordination failure arising from free-riding and defection, whereby no single firm is willing to self-regulate alone, even though all would be better off if all self-regulated together.

We have outlined above instances in which it will be profitable for a corporation to engage in self-regulation. But this does not necessarily mean it is desirable from a social policy standpoint for the company to do so entirely on its own. Social investment and policy dialogue often go beyond the mandate, capabilities and optimal involvement of the modern firm in public affairs. Policy setting should be done externally to the firm, unhindered by its vested interests and entirely free to maximize the welfare of the citizen. So governments must necessarily be involved in the regulation process, even when firms have an incentive to self-regulate on their own. Hence, there is a need and reason for the occurrence of co-regulation that goes beyond its benefit to the firm.

Whatever its driving force, the trend toward co-regulation, involving the private and public sectors and even civil society, is a strong one. In "Getting It Done: Instruments of Enforcement", Philippe Le Billon writes:

> "States remain the most important actor in terms of legislation and enforcement. Yet intergovernmental organizations, private businesses, and civil society groups have played an increasing role in shaping a new generation of instruments and policies defining ethical norms and mixing voluntary compliance, market-based incentives, and independent monitoring. … Non-governmental organizations are now participating more in the design of mandatory instruments led by governments, while governments are participating in industry self-regulation schemes" (Billon, 2003, p. 220).

Le Billon posits that "instruments mixing voluntary membership and mandatory compliance, as in the Financial Action Task Force on Money Laundering (FATF)[34]—may prove the most effective in the current international environment" (Billon, p. 223). The FATF Forty Recommendations, though unbinding, are enforced through a mutual evaluation process, whereby each member country is examined in turn by FATF through "on-site visits conducted by a team of three or four selected legal experts in the legal, financial and law enforcement fields from other governments."[35] Non-compliant members are dealt with according to a "graduated approach aimed at reinforcing peer pressure on member governments to take action."[36]

Nonetheless, co-regulation is no cure-all. In spite of promising occurrences of co-regulation, such as KPCS and FATF, there will still be situations in which responsible corporate conduct in zones of conflict will never be profitable, and therefore in which governmental bodies—national and international—will have to regulate with a heavy hand. When a company operates as an effective monopoly, for example, and the good or service it provides is critical to the economy or indeed to human life. Robert Davies, of the Prince of Wales Business Leaders Forum, adds three types of business entities which will not easily be influenced to act for the common good: larger emerging companies operating outside the rules-based global economy such as some Russian companies; small and medium sized companies operating below the radar screen in trade, contracting, etc; and private, opportunistic and semi-criminal businesses including illicit arms traders, smugglers, racketeers and Mafia type operations.[37] Government–driven regulation arises out of non-remediable market failures. In these cases, the government has no choice but to regulate outside of the realm of co-regulation, since the private sector has no incentive of its own to co-operate and may do all it can to sabotage the process.

The broad strokes of co-regulation

In summary, we can make in a few broad strokes a preliminary sketch of the co-regulation process, and of the main hats that private enterprises and governmental and international bodies should wear therein. More concrete recommendations related to the 'business and conflict' problem in general are addressed in the concluding chapter of this *brief*. There are no doubt other roles that each actor can play—but the following primary and minimum objectives should remain in sharp focus. In moving forward to meet the challenges and opportunities raised by increased co-regulation:

- Companies should continue to focus on pursuing shareholder value, mindful that conflict risk management and transparency provide value to the shareholder. They should therefore emphasize conflict risk assessments, and publish the details of their operations (including payments to government, and security arrangements). They should promote common standards in these areas for all firms within their industry. These are the most important contributions they can make to co-regulation of the business and conflict problem, and conveniently, neither calls into question the basic essence of the firm. Transparency is the means by which the market can make informed decisions, and through its informed decisions, reward those companies that are doing their job right. Conflict risk assessments, if properly done, are the means to express to that market that the company should not be penalized for undertaking sound—and, we will assume, sorely needed—development projects which were derailed only due to unforeseen and unavoidable circumstances. Framed in this way, the primary role for business within co-regulation need not go beyond anything not already posited by the liberal economist's much-loved doctrine of free market capitalism: perfect information, and market-driven demand.

- Governments should aim to redress within the co-regulation process those market and co-ordination failures leading to free riding and a race-to-the-bottom amongst companies within their country. That is, they need to give incentives to business so that all operate in a fair and legal market characterized by transparency, and to classify for business precisely what that transparency entails. This may involve a combination of carrots, such as subsidies, tax-credits and contract tenders contingent on conflict-sensitive operations, and sticks, through independent monitoring and enforcement of the above mentioned industry-initiated standards of risk management and transparency, including the levy of punitive damages on the non-compliant.

- The above government-level co-ordination of corporations needs to then be coordinated between governments, by the international organizations. These should also aim to resolve the same market and co-ordination failures on a global level, amongst companies as well as across countries. The World Trade Organization, for one, should work alongside its partners in co-regulation to prevent the trade and 'dumping'—to use borrowed terminology—of products whose prices do not properly reflect the costs of conflict-insensitive business operations.

Box 3: The Chad-Cameroon Petroleum Development and Pipeline Project: An experiment in public-private partnership

Chad is one of the poorest countries in the world. At the same time, it is politically extremely unstable. Internal wars have been waged ever since 1966. Even today, low-intensity violent conflict lingers on in some parts of the country. Oil was discovered in Chad as early as 30 years ago, but it took until July 2003 till oil produced in southern Chad at the Doba oil fields began to flow through a 1,070 kilometer pipeline to an export terminal on the Atlantic coast in Cameroon. The construction of that pipeline had only begun in 2000. The current peak capacity of 225,000 barrels of oil a day was reached in late 2004.

Oil production will no doubt change the fate of Chad, for better or worse. The commencement of the oil era in Chad has to be seen in the context of an extremely complex political process, involving not only private business companies and the Chadian government, but also the World Bank and a host of international and national civil society actors.

The so-called Chad-Cameroon Petroleum Development and Pipeline Project is the largest foreign investment in Sub-Saharan Africa. It is operated by ExxonMobile, which holds 40 percent of the private equity. Other partners are Malaysia's state oil company Petronas (35 percent) and Chevron-Texaco (25 percent). The Chadian government was of course very keen to get this project going as it would provide the state with enormous amounts of revenue (estimated at 2 billion US dollars over the next 25 years, or 80 million dollars per year). This would increase the country's income by approximately 50 percent. International and national civil society organizations on the other hand were very skeptical, having in mind the negative experiences other African societies have had with large-scale oil production so far. They were afraid that Chad could become another victim of the 'resource curse'. They argued that the project would inevitably cause major environmental and social problems and the danger was imminent that the revenues generated would fill the coffers of an unaccountable, unstable regime with a contested legitimacy, a history of continuous corruption and human rights violations, and one at war with parts of its own populace. Hence it was not at all certain whether the project would really benefit the people of Chad.

For the skeptics and opponents, the involvement of the World Bank offered the opportunity to effectively influence the course of the project. The WB was approached by the Chadian government and the oil companies to co-finance the project. WB involvement was essential, as it was considered as necessary political risk insurance which enabled the oil consortium to raise additional money on international capital markets that would otherwise not have been available (Ndika 2003, p. 1; Gary and Reisch 2005, p. 8). In 1997, the WB made clear its intention to engage in the project. This triggered a lengthy process of discussion within the Bank and between the Bank and the various stakeholders on the conditions of co-financing, with strong public mobilization and lobbying from the NGO camp. The WB was made aware of the dangers inherent in the project and had to consider it in the light of its poverty reduction objectives. Local and international NGOs pursued a strategy of both confrontation and dialogue. They confronted the WB, the oil companies, and the central government with their concerns and demands and participated in talks and conferences with business and state authorities. Thus it took several years of intense and controversial debate until the WB in June 2000 decided to co-finance the project[1], but only under specific conditions. And this is why the Chad-Cameroon oil and pipeline project became an example for cooperation between UN bodies, the private sector and civil society in initiatives to develop guidelines and frameworks for ensuring more responsible, transparent and accountable resource exploitation. In fact, the project has become the test case for public-private partnership, to defuse the 'resource curse' and to ensure that broad sections of the population in a poor country like Chad actually benefit from oil revenue.

The WB—not least in response to pressure from civil society organizations—required as conditions of funding *inter alia* an environmental impact assessment and, as a consequence, a re-routing of the pipeline around ecologically sensitive rainforests "and an externally audited revenue management plan . . . . A key objective was to ensure that oil revenues are used wisely and that oil exploration and production are less likely to create conflict than has been the case in other countries" (Nelson, 2002, p. 216). In 1998 the Chadian 'Law Governing the Management of Oil Revenue' was enacted, and on this basis a revenue management plan was adopted. The plan provided for 72 percent of oil revenue (royalties and dividends) to be spent on health, social services, education, rural development, infrastructure and water management. Another 10 percent are held in a future generations fund, and 4.5 percent will go directly to the oil-producing area, while 13.5 percent are allocated to Chad's treasury for discretionary spending.[2] Compliance is monitored by a joint government-civil society oversight committee, the 'College of Oversight and Control of Petrol Resources' (the College). The College comprises five representatives from government and four from civil society. It is to play a watchdog role, "approving projects and monitoring the quality of their implementation" (Gary and Reisch, 2005, p. 2). In addition, an independent

advisory group of five external experts (the International Advisory Group) was established that reports back to the WB on the implementation of the project. Furthermore, the WB financed additional projects that were to reduce negative environmental and social effects of the pipeline project and to enhance the governmental capacities to manage the project (the Cameroon Petroleum Environment Capacity Project; the Indigenous People Development Plan; the Environment and Development Fund).

Despite these positive innovations, it is too early to declare the Chad-Cameroon pipeline project a success. The test is not over yet. And there are reasons for concern:

- In November 2000 the Chad government used part of a US $25 million oil contract bonus to purchase weapons for the fight against the rebel movements, arguing that this is necessary for the protection of development and national security (Bray, 2003, p. 346).

- Despite environmental protection safeguards, the construction of the pipeline led to the destruction of fragile ecological habitats and of crops and plants and to the pollution of village water sources. As a consequence people were forced to resettle (Ndika, 2003, p. 2–3).

- The "main outstanding concerns relate to the effectiveness of the project's oversight mechanism" (Bray, 2003, p. 347). While it is true that the joint government-civil society oversight mechanism is very innovative and makes transparency possible to an extent that is unheard of in other oil-rich countries, there are also shortcomings: The College "lacks an independent and steady source of funding, and without support from Chadian civil society will be unable to effectively carry out oversight . . . The government has placed trusted allies . . . on the College and has interfered with the selection of civil society members" (Gary and Reisch, 2005, p. 2). Nor does transparency necessarily lead to accountability; reported mismanagement or corruption really has to be followed-up by judicial prosecution. "Transparency is only meaningful if information is understood by the government and the public, and if the findings of oversight bodies lead to action" (Gary and Reisch, 2005, p. 3).

- Furthermore, the requirements regarding transparency, accountability and developmentally directed expenditures only apply to the original three Doba oil fields in southern Chad that come under the initial project contract. ExxonMobile plans to produce from five new fields by the end of 2005, and exploration in various parts of Chad is at present very vivid. Future revenues from new projects are not (yet) covered by the transparency rules that apply to the initial project—nor are forthcoming taxes which also fall outside the revenue management system.

- Confidentiality clauses and secret negotiations still persist. This is why a coalition of Chadian NGOs launched the national platform of PWYP in October 2004, asking oil companies to renounce confidentiality clauses in oil contracts (Gary and Reisch, 2005, p. 7).

- There are problems with regard to limited government capacity to spend the money effectively and ongoing problems with corruption, human rights and judicial procedures. Tensions and conflicts among various factions of the ruling elite and various groups of the Chadian population still run high, and might even escalate with the arrival of the new oil wealth.

- In the oil-producing region, the detrimental effects of the project can be felt already. The 4.5 percent share for the oil-producing area is perceived as insufficient by the people of the region. There is competition over the (very few) jobs provided by the oil companies; hiring practices are problematic; relatively high wages incite communal tensions. Compensation payments are perceived by many people on the ground as inadequate and unjust. In addition, people have problems managing the (relatively large amounts of) compensation money, as they are not used to handling cash. This is a source of conflict, and so is the influx of big numbers of 'foreigners' (people from other parts of the country) into the oil producing region. Prostitution, alcohol abuse and other social problems are imported, too. Violent clashes between locals and 'foreigners' have already occurred. The assets of the companies and the oil infrastructure are guarded by police and private security companies whose relations with the local population are tense.

To summarize: Although the project has been controversial with donor and host governments, oil companies and the international NGO community, it is nonetheless an interesting example of an attempt to build multi-stakeholder consultations and accountability structures into a major resource-development project in order to avoid violent conflict and the use of revenues to finance conflict.

On the other hand, this example demonstrates the fundamental problem of this type of project in this kind of political and societal environment: it is obviously much easier to get an extractive project off the ground technically and financially than to develop the social and political environment in which the revenues

from such projects can actually address the developmental needs of the majority of the people. "While Chad's oilfields and pipelines were built more quickly than planned, the capacity of government has lagged far behind" (Gary and Reisch, 2005, p. 91). Prerequisites for wise revenue governance are respect for human rights, rule of law, democratic participation, governmental capacity and legitimacy, in short: good governance (cf. Gary and Reisch, 2005, p. 1). The development of good governance, however, has only just begun.

[1] The WB and the IFC (International Finance Corporation) are providing US $293 million to the oil transportation companies of Chad and Cameroon to help those countries' participation in the project. This is the WB's largest single investment in Sub-Saharan Africa. The WB engagement also led to additional contributions by e.g. the European Investment Bank (US $41.5 million). The private sector partners on the other hand are financing some US $3 billion, that is more than 80 percent of project costs.

[2] The revenue management plan applies only to direct revenues, that is, royalties and dividends. All indirect revenues—e.g. income taxes on the oil companies or customs duties—go directly into general government coffers (Gary and Reisch, 2005, pp. 2 and 11).

Endnotes

[1] Self-regulating corporations monitor and enforce the voluntary rules themselves, but these rules can (and should) be backed up with a variety of formal and informal monitoring and enforcement mechanisms. In the case of industry self-regulation, these may include written agreements between companies.

[2] A code of conduct can be defined simply as "a formal statement of the values and business practices of a corporation". (www.codesofconduct.org) But this simplicity masks a complex array of norms—principles, guidelines, standards and rules—that vary widely in scope, in the number of parties involved, in the degree of specificity, in subject matter, and in provisions for non-compliance.

[3] www.unglobalcompact.org .

[4] www.unglobalcompact.org .

[5] "Conflict-Sensitive Business Practice: Guidance for Extractive Industries", International Alert and IISD, March 2005, available via www.international-alert.org .

[6] The Flashpoint Issues include: Stakeholder Engagement, Resettlement, Compensation, Indigenous Peoples, Social Investment, Dealing with Armed Groups, Security Arrangements, Human Rights, Corruption and Transparency.

[7] "Identifying Public Policy Options to Promote Conflict-Sensitive Business Practices", Virginia Haufler (rapporteur), Meeting Report, 13 December 2004, available via www.unglobalcompact.org .

[8] "Identifying Public Policy Options to Promote Conflict-Sensitive Business Practices", Virginia Haufler (rapporteur), Meeting Report, 13 December 2004, available via www.unglobalcompact.org .

[9] www.unglobalcompact.org .

[10] www.oecd.org .

[11] www.oecd.org .

[12] www.oecd.org .

[13] "Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights", Sub-Commission on the Promotion and Protection of Human Rights, United Nations, 26 August 2003, available via www.unhchr.ch .

[14] "Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights", Sub-Commission on the Promotion and Protection of Human Rights, United Nations, 26 August 2003, available via www.unhchr.ch .

[15] www.voluntaryprinciples.org .

[16] www.publishwhatyoupay.org .

[17] www.eitransparency.org .

[18] www.eitransparency.org .

[19] "The Global Reporting Initiative (GRI) is a multi-stakeholder process and independent institution whose mission is to develop and disseminate globally applicable Sustainability Reporting Guidelines. These Guidelines are for voluntary use by organisations for reporting on the economic, environmental, and social dimensions of their activities, products, and services." (www.globalreporting.org/about/brief.asp)

[20] The IMF Code of Good Practice in Fiscal Transparency sets out what governments should do to meet "the following key objectives: roles and responsibilities in government should be clear; information on government activities should be provided to the public; budget preparation, execution, and reporting should be undertaken in an open

manner; and fiscal information should attain widely accepted standards of data quality and be subject to independent assurances of integrity." (www.imf.org/external/np/fad/trans/code.htm)

[21] www.kimberleyprocess.com .

[22] www.kimberleyprocess.com .

[23] www.fsc.org/en/about .

[24] "FSC standard for forest management enterprises supplying non FSC-certified controlled wood", Forest Stewardship Council document, 1 October 2004, p. 5.

[25] The Forest Management Unit is "a clearly defined forest area with mapped boundaries, managed by a single managerial body to a set of explicit objectives which are expressed in a self-contained multi-year management plan." (FSC Glossary of Terms, FSC Document, 5 July 2004, p. 6)

[26] Reforming Government Policies and the Fight against Forest Crime. 2002. Proceedings of an informal expert meeting, 14–16 January 2002. Rome, FAO.

[27] "Investing in Stability: Conflict Risk, Environmental Challenges and the Bottom-Line", International Institute for Sustainable Development and United Nations Environment Program, 2004, p. 8. Available via www.iisd.org.

[28] "Investing in Stability: Conflict Risk, Environmental Challenges and the Bottom-Line", International Institute for Sustainable Development and United Nations Environment Program, 2004, p. 10. Available via www.iisd.org.

[29] www.equator-principles.com .

[30] www.equator-principles.com .

[31] www.equator-principles.com .

[32] "The FTSE4Good Index Series has been designed to measure the performance of companies that meet globally recognised corporate responsibility standards, and to facilitate investment in those companies." These include environmental, social and stake-holder and now human rights criteria. (www.ftse.com/ftse4good)

[33] "The Good Company: A Survey of Corporate Social Responsibility", *Economist*, 22–28 January, 2005, pp. 13–18.

[34] The Financial Action Task Force on Money Laundering is the embodiment of an "effort to adopt and implement measures designed to counter the use of the financial system by criminals". It established the FATF Forty Recommendations in 1990 that set out "the basic framework for anti-money laundering efforts and are intended to be of universal application. They provide a complete set of counter-measures against money laundering covering the criminal justice system and law enforcement, the financial system and its regulation, and international co-operation." The FATF has since revised its Forty Recommendations–first in 1996 and then more recently in 2003, having also added Eight Special Recommendations on Terrorist Financing in response to the terrorist attacks in the United States on 11 September 2001. Accessed through www1.oecd.org/fatf .

[35] www1.oecd.org/fatf .

[36] The policy starts with required progress reports at plenary meetings; persistently non-compliant members will receive a letter from the FATF President, or be visited by a high-level mission; Recommendation 21 may then be invoked, issuing a statement calling on financial institutions to "give special attention to business relations and transactions with persons, companies and financial institutions domiciled in the non-complying country"; and as a final measure, the FATF membership of the country in question can be suspended.

[37] Robert Davies, Wilton Park Conference on 'Humanitarian Principles and Non-State Actors', in co-operation with the Henry Dunant Centre Geneva, and the UK Department for International Development, 9 February 2000, available via www.iblf.org/csr .

International Sanctions, Resource Conflicts and the Rise of Expert Panels

Sanctions and other punitive measures, imposed by national governments and international bodies such as the United Nations (UN) and the European Union (EU), have been used for many decades in an attempt to change the behavior of states seen as violating international norms. The most prominent examples are sanctions imposed by the UN Security Council under Article 41 of the UN Charter. For most of its history, the UN has been focusing on state (rather than private) actors and the scope of sanctions imposed in New York has traditionally been limited to the transfer of arms, ammunition and other forms of military equipment. Whereas the UN Security Council remained largely inactive on this front during the Cold War period—due mainly to the inability of the permanent five to reach agreement on collective action—the 1990s have been billed by some as the "sanctions decade" (Cortright and Lopez, 2000). Given the growing recognition of the concept of "new wars" and the role of economic interests in fuelling conflict, the scope of international sanctions has since been broadened to include such commodities as diamonds, oil and other natural resources (see chapter one for more on this). In this context, the role of private companies, particularly extractive industries, has come under closer scrutiny since the end of the 1990s. The international community has also begun to experiment with measures other than traditional sanctions regimes, such as the introduction of expert panels and internationally supervised schemes for controlling the use of revenue generated from certain commodities (e.g. the oil-for-food program in Iraq). While sanctions are still imposed by state representatives against other states (and to a lesser extent against armed groups), these new additions to the diplomatic toolbox are also targeted toward private companies that act as intermediaries between conflicting parties. The introduction of expert panels, in particular, has also increased the role of civil society in this arena due to the panels' publication of information concerning international compliance with sanctions regimes. The advocacy work of specialized NGOs such as Global Witness, combined with the investigative research of UN-appointed expert panels and reports by the international news media are mutually reinforcing efforts that have helped to create a new dimension of public diplomacy since the late 1990s (Rupiya, 2005). International companies are increasingly being forced to answer hitherto unasked questions about their behavior in zones of conflict—even where they are working within the frame of international and domestic law—and often face the risk of having their reputation damaged over real or alleged wrongdoings.

More show than substance: unilateral embargoes

Sanctions have been used by states for centuries to deny opponents access to critical resources for fighting wars such as arms, ammunition and military equipment. While the most prominent sanctions regimes are imposed by the UN, regional groups of states (most notably the EU) as well as individual governments have, and continue to impose sanctions on other international actors. As Le Billion (2005, p. 62) notes, the federal government of the United States (US), as well as individual state governments and even municipalities have imposed unilateral embargoes against other states and individuals. While the sheer economic importance and political clout of the US lends credibility to measures taken by the government in Washington, unilateral embargoes are mainly declaratory in nature. More specifically, they allow governments to appease domestic constituencies by "acting tough" on foreign human rights violations without actually having to commit substantial resources toward the search for a diplomatic solution or, in the most extreme cases, military intervention. The obvious drawback of unilateral sanctions is the fact that they allow the targeted party to find other trading partners, thereby limiting the punishment imposed by the embargo on the local economy and the purse strings of the political elite. While economic diversification may initially lead to higher transaction costs for the embargoed country, it often benefits such governments in the long run as they are forced to adopt an import substitution strategy, leading to the development of indigenous industries. Historically, this was the case in both Southern Rhodesia (present-day Zimbabwe) and South Africa, whose white settler regimes were at the receiving end of international embargoes during the 1970s and 1980s. Unless all neighbors to the embargoed state sign up to these measures, there is little hope of forcing a belligerent government out of business by anything less than universal sanctions regime.

A good example of the limitations of a non-universal sanctions regime is illustrated by the measures taken by the EU, the US and other industrialized countries against the government of Zimbabwe. Following a number of high-profile human rights violations and the manipulation of the country's presidential and parliamentary elections by the ruling ZANU-PF, the EU imposed unilateral sanctions on the government in Harare. While these fell short of a comprehensive trade embargo, the sanctions include a ban on

the sale of arms, ammunition and military equipment; the freezing of bank accounts belonging to members of the Zimbabwean elite; and the suspension of official development cooperation. Furthermore, high-profile members of the governing party have been denied entry visas to any EU member state. Designed to limit the impact of the sanctions on the ordinary citizens of Zimbabwe, the embargo was meant to hit the country's oligarchy in order to affect political change from within. At the same time, European governments (most notably Zimbabwe's former colonial power, the United Kingdom) were keen to placate their own constituencies' demands for action and send a message of support to Harare's embattled opposition. Despite the fact that a number of other industrialized countries, such as Norway and New Zealand, also support these measures undertaken by the EU, the sanctions are widely regarded as having failed to achieve political change in Zimbabwe (Croll et. al., 2005). While the Zimbabwean government is increasingly looking towards Asia—particularly China—to import new weapons and export their domestic products (Schwersensky, 2004), the ruling elite have shifted their banking, holiday and medical needs from London and the French Côte d'Azure to Johannesburg and Cape Town in neighboring South Africa. A primary challenge here is the refusal of the Southern African Development Community (SADC), and particularly of South Africa, to impose punitive measures against one of its own member states (Adelmann, 2004). Though at the same time, even some European governments have been lenient in their enforcement of the travel ban on President Mugabe, who made a high profile visit to Paris in 2003 and later to Rome in 2005. A similar challenge can also be observed with regard to US sanctions against Sudan. Initially, junior Canadian and European oil companies, such as Talisman and Lundin Petroleum (see Box 2 on Lundin on pp. 36–37) filled the void created by the absence of US companies, and were later replaced by Asian companies after having pulled out of the country due to their role in Sudan's mounting human rights situation (Lewis, 2004). This 'race to the bottom' with regard to corporate respect for human rights in zones of conflict is to be expected with less than universal sanctions regimes.

Even in the case of universal embargoes, such as in the case of measures imposed by the UN Security Council, numerous challenges remain with regard to their effective enforcement. Under Article 21 of the UN Charter, member states have to comply with and enforce all decisions taken by the UN Security Council with regard to sanctions. However, in practice sanctions are frequently championed by industrialized states, whereas the brunt of its implementation is borne by developing countries. These countries have to bear both the economic cost of improved border policing and the loss of revenue from trade with the target country of the sanctions. Given these limiting factors, it should not come as a surprise that governments of developing countries often only pay lip service to multilateral sanctions, particularly since the embargo helps to increase profit margins for well-connected smugglers on both sides of the border.[1] By contrast, industrialized states (often far removed from the targeted countries) face only marginal costs in terms of lost trade opportunities. It is nevertheless worth noting that the US and the EU failed to agree on comprehensive economic sanctions against General Abacha's military dictatorship in Nigeria in 1995 despite public and parliamentary pressure, since international oil interests were at stake (Le Billion, 2005, p. 63).

As mentioned above, UN embargoes traditionally were restricted to arms, ammunition and military equipment. Only in one case prior to 1990 were sanctions broadened to include other commodities, as mandated by UN Security Council Resolutions 232 (1966) and 253 (1968) against Southern Rhodesia (present-day Zimbabwe), which were imposed following the white settler regime's defiant Unilateral Declaration of Independence from the United Kingdom. In an interesting parallel to the EU's more recent experience, the Smith government remained in power despite the UN embargo and a bitter civil war with two indigenous liberation movements continued until the Apartheid government in South Africa decided to withdraw South of the Limpopo. It was only with the withdrawal of its former ally that the Smith government was forced to embrace international mediation and, ultimately the process of free and fair elections (Godwin and Hancock, 1993). However, since the end of the Cold War the number of UN punitive measures involving certain commodities has increased substantially, as indicated in Table 1 below.

Blunt, but potentially effective: comprehensive trade embargoes

The early 1990s saw the establishment of three comprehensive trade embargoes against Iraq, Yugoslavia and Haiti respectively, the former two of which will be discussed in detail in this section. The embargo against Iraq was established in August 1990 following international (and particularly US) concerns over Baghdad's refusal to cooperate with international attempts to monitor the destruction of weapons of

Table 1: UN Security Council sanctions against resource exports

Source: *Le Billion, 2005, p. 59.*

Year	Country	Resolution
1966	Southern Rhodesia	S/RES/232 (1966) and S/RES/253 on all commodities
1990	Iraq	S/RES/661 (1990) on all commodities; S/RES/665 (1990) calls for the halt, inspection and verification of all maritime shipping in the Gulf area.
1991	Yugoslavia	S/RES/757 (1991) and 787 (1992) on all commodities.
1992	Cambodia	S/RES/792 (1992) on log exports, requests adoption of embargo on minerals and gems exports, and requests implementation measures by UNTAC.
1993	Libya	S/RES/883 (1993) banned the provision to Libya of equipment for oil refining and transportation.
1994	Haiti	S/RES/917 (1994) on all commodities.
1998	Angola	S/RES/1173 (1998) on all diamonds outside government Certificate of Origin regime and the provision of mining equipment and services to non-government controlled areas; S/RES/1237 (1999) establishes expert panel; S/RES/1295 (2000) establishment of a sanctions-monitoring mechanism.
2000	Sierra Leone	S/RES/1306 (2000) on all rough diamonds pending an effective governmental Certificate of Origin.
2000	Afghanistan	S/RES/1333 (2000) banned the provision to Taliban-controlled areas of arcetic anhydride used in heroin production.
2000	DR Congo	S/PRST/2000/20 on the establishment of expert panel on the illegal exploitation of natural resources and other forms of wealth.
2001	Liberia	S/RES/1343 (2001) on all rough diamonds, and the establishment of an expert panel; S/RES/1408 (2002) establishment by the government of Liberia of transparent and internationally verifiable audit regimes on the use of timber industry revenues; S/RES/ 1478 (2003) on all timber exports.

mass destruction after the end of the first Gulf War. In addition to prohibiting the sale of arms to Iraq, UN Security Council Resolution 661 also banned the export of oil, froze financial assets held abroad, suspended international flights to Iraq and put in place a comprehensive trade embargo (Cortright and Lopez, 2002, p. 24). At that time, these were the most severe measures ever taken against a member state by the UN under Article 41 of the Charter. The Security Council also established a Sanctions Committee with the mandate to oversee the implementation of these measures. A central role in enforcing the sanctions fell to the Multinational Interception Force, led by the US Navy, which was established by the UN Security Council following Resolution 665 (1990) with the task of controlling all maritime traffic to and from Iraqi ports. Given the dependency of the Iraqi economy on the sale of crude oil, it was assumed by policymakers that disrupting the cash flow generated by these exports would either force the government in Baghdad into compliance, or generate sufficient domestic political pressure to force the ruling Baath Party from power. According to Le Billion (2005, p. 60), from 1990 to1995, Iraqi oil exports were reduced by 90 percent as a result of the sanctions, which sent the Iraqi economy into a sharp decline. Consequently, unemployment and inflation increased dramatically, while industrial production collapsed, both as a result of the sanctions and of the extensive damage of allied bombing campaigns during the Gulf War. This impact had disconcerting implications for the health and welfare of the population; whereas Iraq had enjoyed a comparatively high standard of living during the 1970s and

Box 4: HC Starck and Coltan from the Democratic Republic of Congo

Coltan, or more precisely, Columbium-Tantalite, is a black tar-like mineral used for the production of Tantalum, which in turn plays an important role in the manufacturing of capacitors used in mobile phones, computers and other small electronic devices. Unlike gold, diamonds or tropical hardwood, Coltan was rarely mentioned in connection with the looting of natural resources during armed conflict until the end of 2000. Then, two interrelated developments propelled the mineral onto the world stage: the first was the civil war raging in the Democratic Republic of Congo (DRC; formerly known as Zaire), which at that point accounted for the vast majority of known Coltan reserves. The war engulfed a territory the size of Western Europe and drew numerous other African states (most notably Uganda, Rwanda and Burundi) into the conflict. The second development was a spike in the price of Coltan on the global market, from US$ 30-40 per pound to over US$ 365 per pound by November 2000, a result of a 40 percent increase in demand from the previous year (Global Witness, 2004: 19). This surge was triggered by the raising demand for capacitors by the producers of mobile phones and hand-held computers, as well as by changes in the industry[1]. In Congo's eastern provinces this created a Coltan rush, with thousands of peasants abandoning their farms in favor of informal mining. The rebel forces occupying those areas – along with their foreign backers in the Great Lakes region – were quick to exploit this trade, with much of the profits being creamed off by Rwandan and Ugandan businesspeople, often closely affiliated with their countries' armed forces (Moyroud and Katunga, 2002: 177). Due to the shadowy nature of these transactions, it is difficult to quantify the volume of this trade; but according to one estimate, the Rwandan Army made a profit of US$ 64 million in 2000 and US$ 44 million in 2001 with 60 to 70 percent being reinvested into the war effort (Raeymaekers, 2002: 19).

While Coltan is mined in the DRC, all downstream processing takes place elsewhere. Coltan is shipped via Kampala and Kigali to Europe, North America and Asia. The refinery market is dominated by a small group of companies, including HC Starck (Germany), Cabot Corp. (U.S.A.), Ningxia (China) and Ulba (Kazakhstan), which in turn are supplying the electronics industry. Even though the DRC is believed to contain 80 percent of the known global Coltan deposits, prior to the boom the refining industry relied on the output of the Australian 'Sons of Gwalia' mine for its raw materials, as the volatile political situation made operations in the Great Lakes region unattractive[2]. Following the spike in prices, this situation changed and all major companies intensified their buying on the 'outside market', for example by using a network of traders to source the material. Increasingly worried about reports pointing towards the large-scale looting of natural resources by foreign forces in the DRC, the United Nations Security Council authorized the creation of a expert panel in June 2000 to investigate these claims, which presented its findings six months later. This report (United Nations Security Council, 2001a) generated a lot of controversy as it implicated the governments of Rwanda and Uganda as accomplices in the theft of natural resources. Among other commodities, it also flagged the Coltan trade as a source of rebel revenue, with its addendum describing the commercial network involved and naming a number of North American and European companies, including Belgian flag carrier Sabena and the Ulba processing plant in Kazakhstan (United Nations Security Council, 2001b).

With more than 3,400 employees and 14 production plants in Europe, North America and the Far East, German company HC Starck is, according to its own public relations department, the market leader in refractory metal powders. A subsidiary of the Bayer Group, the company is a leading supplier of refined tantalum and its compounds. With no mines of its own, HC Starck has been dependent on the output of American and Australian mines, as well as on the use of secondary raw materials from South East Asia for its Coltan needs (Author's interview with HC Starck staff, 18 June 2004). However, during the boom period of 2000-2001, Coltan was also procured through brokers. While official trade statistics record no imports of Congolese Coltan to Germany after 1998 (Global Witness, 2004: 21), it is very likely that some of the metal imported from other East African countries was actually coming from the DRC. When this possibility was first mentioned in the German daily *tageszeitung* (21 November 2000), HC Starck refused to comment on the origin of the company's Coltan imports (Werner and Weiss, 2003: 74), thereby triggering a public debate over the role of German companies in the Congolese civil war. In a press statement (HC Starck 2002) the company later admitted to smaller purchases from trading companies in Central Africa, claiming that their suppliers had "convincingly assured that these raw materials come from independent peasant miners and not from rebel organizations or conscripted miners". It also stated that HC Starck continued to purchase from this area out of a sense of social responsibility towards "our suppliers and their staff".

Despite these statements, the next report of the expert panel (United Nations Security Council, 2002: par. 79-82) explicitly mentioned HC Starck in connection with Coltan from the DRC. It claimed that HC Starck bought about 15 percent of the Coltan exported by Eagle Wings Resources International in Kigali, a company with close ties to the Rwandan military. Furthermore, the panel claimed that Coltan originating in the Congo had been wrongly declared as originating in Mozambique by a South

African trading company and subsequently sold to HC Starck for processing in Thailand in September 2001 (United Nations Security Council, 2002: par. 81). Following a number of critical media reports, European civil society organizations began a campaign against the import of Coltan from the DRC. Coltan was targeted specifically because, unlike other resources coming from the DRC (such as coffee, gold and timber), the downstream market was dominated by a fairly small number of companies based in industrialized countries. HC Starck was a particularly popular target because of its links to the Bayer Group, a major producer of medical drugs and chemical materials that had previously been a target of consumer advocacy groups. HC Starck's management alleged that because of those ties with Bayer, the company had been unfairly singled out among the companies involved in the refining of Tantalum (Author's interview, 18 June 2004). Coltan mining also had a disastrous impact on the Congolese wildlife, as numerous mines were located in the country's national parks. According to one estimate, all 3,700 elephants and most of the 8,000 lowland gorillas in these parks had been poached by Coltan miners (Hayes, 2002). While Congolese activists were understandably outraged about the fact that the world seemed more concerned about the fate of the country's wildlife than about its human suffering, this conservation dimension attracted significant interest from civil society organizations working in this field, thereby intensifying the pressure for change on the Coltan industry.

Declining Coltan prices, combined with increased pressure from civil society organizations have led a number of major companies to stop buying in the DRC. US company Cabot withdrew from that market (*New York Times*, 12 November 2001) and HC Stark also announced that it had stopped buying in Central Africa in August 2002. Belgian flag carrier SABENA also stopped the shipment of Coltan on its flights from Kigali after having been mentioned in the panel report. In a bid to re-establish its credibility, HC Starck also went a step further by announcing its intention to support a London-based conservation group, the Dian Fossey Gorilla Fund, in an attempt to find ways to reconcile Coltan exploitation with the needs of the local population and the ecosystem. This culminated in a discussion process dubbed the 'Durban Process' involving industry and government representatives, as well as delegates from the local population. According to a representative of the Gorilla Fund, HC Starck's role in this process has been mainly symbolic, having been limited to sending representatives to the forum meetings (Author's interview, 11 October 2005). HC Starck continues to maintain that it has been unfairly denounced by the expert panel and, unlike some of its competitors, had collaborated with the panel in providing all the information requested (Author's interview, 18 June 2004). Subsequent panel reports have in fact to some degree cleared the name of the company (United Nations Security Council, 2003). Even though there has never been an embargo on Coltan imports, this case clearly shows the power of 'naming and shaming' exercised by the experts panel in influencing corporate behavior. However, it also illustrates its limitations: while the global players have largely left the Congo, the extraction of Coltan continues as 'shadowy actors' with business connections in Eastern Europe have taken over the market, unconcerned about their international reputation (Cuvelier and Raeymaekers, 2002: 21-23).

[1] According to an interview with representatives of HC Starck, major producers of computers and telecommunication equipment were stockpiling refined Coltan and were considering setting up their own refinery capacities in anticipation of high demand, therefore contributing to the inflation in price (Author's Interview, 18 June 2004; also Werner and Weiss, 2003: 92-93).

[2] According to published trade statistics, the United States was the most important importer of Congolese Coltan until 2000, when their imports dropped dramatically. After 2001, the only significant importer was China, even though it is believed that large quantities of Coltan being exported from Rwanda are actually originating in the DRC (Global Witness, 2004: 21).

1980s, in the early 1990s it was facing a severe food crisis. Large parts of the population were therefore relying on the government's food-rationing program for sustenance, a fact accounting for the skyrocketing malnutrition rates, particularly among vulnerable groups such as women, children and the elderly. Not only were they malnourished, but as a result the people were more susceptible to infectious diseases, a problem that was exacerbated by the deterioration of the Iraqi health system and the lack of drugs and spare parts from the embargo. According to the United Nations Population Fund (UNPF), maternal mortality rose from 50 per 100,000 births in 1989 to 117 per 100,000 births in 1997, while UNICEF reported in 1996 that 4,500 children under the age of five were dying every month in Iraq from preventable hunger and disease (Cortright and Lopez, 2000, p. 46). Meanwhile, the government in Baghdad used the emerging crisis for political gain, showcasing suffering children in poorly equipped hospitals to foreign journalists, while repeatedly rejecting "options for alleviating the crisis" (Cortright and Lopez, 2002, p. 27). The international outcry following a number of articles and TV features led a wave of sympathy for the Iraqi people and to mounting public opposition to the international sanctions (Cortright and Lopez, 1999).

The UN Security Council responded by creating the "oil-for-food program", which allowed the sale of Iraqi oil in exchange for the import of humanitarian and other civilian goods. Authorized by UN Security Council Resolutions 706 (1991) and 986 (1995), the UN was tasked with administering the program. The receipts of the oil sales were to be deposited in an escrow account with 30 percent to be set aside for a war reparation fund and for the financing of UN operations in Iraq (Cortright and Lopez, 2002, p. 48). However, the government in Baghdad kept delaying the implementation of the program, citing concerns about the infringement of Iraq's sovereignty, a stalling tactic no doubt in part driven by the desire to maximize political gain from the international protests against the embargo's impact on the civilian population. Following almost five years of negotiations, Saddam Hussein's government finally accepted the proposal in November 1996 and deliveries of humanitarian goods began in early 1997. Between 1997 and September 2001 the program approved sales of Iraqi crude with a combined value of US$ 28.6 billion, with much of the oil being exported to the United States. Effectively, the implementation of the oil-for-food program replaced the comprehensive trade embargo with an internationally supervised revenue management scheme and import control regime. By February 1998, the scope of "allowed imports" was broadened from the original focus on food and medical drugs to economic rehabilitation and development. Categories of imports now included equipment for oil production, electricity, agriculture, water and sanitation, education, housing, transportation and telecommunications. In December 1999, the UN Security Council voted to lift the ceiling for oil exports, allowing Iraq to sell as much oil as it could produce on the global market, with production levels approaching pre-war rates by the end of 2000. As Cortright and Lopez (2002, p. 28) observe, "by early 2000, it was no longer accurate to describe UN policy as an oil embargo".

Artisinal mining in Sierra Leone.

At the same time as official oil exports were resumed in the late 1990s, the government in Baghdad had perfected the art of oil smuggling. Since the international community controlled its seaports, the ruling elite turned to neighbors such as Turkey, Syria, Jordan and even its former enemy, Iran, in order to find an outlet for its oil production. In fact, the governments in Damascus and Amman began to actively undermine the UN sanctions: for example, Syria signed a bilateral free trade agreement with Iraq in January 2001 (Cortright and Lopez, 2002, p. 33), while Jordan stopped the inspection of cargoes bound for Iraq in October 2000 (Cortright and Lopez, 2002, p. 34). Even countries such as Turkey and Iran, which had enjoyed less than cordial relations with Baghdad in the past, benefited from the illegal trade in crude oil: Turkish petrol trucks jammed the

border crossing with the complicity of customs officials, while the Iranian government allegedly sold 'transit permits' to smugglers using their territorial waters (Le Billion, 2005, p. 60). What is more, the US, which had been one of the promoters of the embargo, avoided a confrontation with the "allied governments" of Jordan and Turkey over this trade, despite the fact that it was widely known. Only in some cases was any recourse action taken; for example, Shell was fined US$ 2 million after one of its tankers was found transporting Iraqi oil in April 2000 (*New York Times*, 26 April 2000). The Iraqi government's revenue from illicit exports such as these was estimated in 2000 to exceed US$ 600 million (*Reuters*, 6 February 2001), allowing Saddam Hussein's regime to purchase goods and services beyond the confines of the UN-monitored oil for food program. All things considered, the UN embargo failed to reach both its stated goal of ensuring compliance with international verification as well as its implicit aim of fostering regime change in Baghdad. While the humanitarian costs of those measures were enormous, the ruling elite was able to ride out the storm and often benefited from the economic opportunities that resulted from increased smuggling activities. It is also likely that the Baath party's hold on power may have even been strengthened as a result of the oil embargo. The arms embargo, however, was more effective—this became evident when the US-led military intervention in Iraq beginning in 2003 was met with less resistance than anticipated from the Iraqi military and, crucially, failed to find any of weapons of mass destruction.

The Yugoslavian example shows a number of similarities with the case of Iraq. Following the violent disintegration of the Socialist Federal Republic of Yugoslavia in 1991, the UN Security Council imposed an arms embargo on 25 September 1991, which was complemented by a comprehensive trade embargo on 30 May 1992. This measure banned all international trade, travel and financial transactions involving Yugoslavia. All technical and scientific cooperation was to be suspended, as were sports and cultural exchanges. However, the embargo did allow for the transshipment of goods and humanitarian aid. When the former proved to be an entry door for sanctions busting, however, the Security Council voted to tighten the net by halting all maritime shipping on the Danube River and by prohibiting the transshipment of strategic goods through Serbia and Montenegro. The scope of the sanctions regime was further extended on 17 April 1993 when Security Council Resolution 820 froze all Yugoslav financial assets abroad and prohibited the transit of vessels owned or registered in Yugoslavia. Each tightening of the sanctions regime was preceded by new reports of atrocities committed by Serb forces fighting in Bosnia and Herzegovina, showing the importance of this instrument as a means of placating, or responding to, domestic audiences in mainly western states.

Yugoslavia's economy went into a sharp decline during the 1990s: Gross Domestic Product (GDP) fell by 30 percent in 1993 compared with the previous year—from US$ 13.60 billion to US$ 9.52 billion. Industrial production fell by 40 percent within three months of the imposition of the embargo. Plants either reduced their capacity or closed down completely and, by the end of 1993, 1.3 million people were on "paid leave of absence", while another 750,000 were unemployed. For those individuals fortunate enough to have remain employed, average salaries had fallen to US$ 15 per month (Delevic, 1998, pp. 76–80). The government in Belgrade responded by printing more money, which by late 1993 had resulted in the highest rate of inflation (100 trillion percent) recorded since the days of the Weimar Republic (Cortright and Lopez, 2000, p. 73). Similar to Iraq, it is difficult to quantify to what extent the recession was caused by the trade embargo; while the Yugoslav government was spared from the devastation of widespread fighting, as in the case of Iraq, their economy had lost most of its traditional markets. Yugoslavia therefore experienced a sharp decline in the number of consumers, from 24 million to 10.5 million. Combined with the spiraling cost of the war and the impact of the sanctions, the Yugoslav economy went into a steep nosedive. As previously mentioned, even though humanitarian goods were exempted from the embargo, the worsening economic situation had a direct impact on the most vulnerable groups in society. By the end of 1993, the part of the population classified as "poor" had in fact grown from 14 to 44 percent (United States Department of State, 1996, pp. 1–2).

As in the case of Iraq, the trade embargo created massive opportunities for smuggling, with most of the larger operators enjoying the protection of the Yugoslav authorities (Andreas, 2005). In response to this, the Conference on Security and Cooperation in Europe (CSCE) and the European Community (EC) jointly formed a Sanctions Liaison Group tasked with providing technical assistance to Yugoslavia's neighbors. Customs officials were dispatched from October 1992 onwards to Albania, Bulgaria, Croatia, Hungary, Macedonia, Romania and Ukraine. Linked among themselves by satellite communication with a coordinating office in Brussels, these Sanctions Assistance Missions were tasked with the verification of shipping documents. From April 1993, further assistance in enforcing the embargo was provided by the Western European Union (WEU) as well as the North Atlantic Treaty Organization (NATO), which established Operation 'Sharp Guard' on the Adriatic coast in collaboration with the WEU. In this context, fourteen nations provided ships and crews for the checking of vessels entering or leaving Yugoslav ports (Cortright and Lopez, 2000, p. 69).

The embargo against Yugoslavia was relatively successful; however, as in the case of Iraq, an uprising of the civilian

population against Slobodan Milosevic's regime never occurred. In fact, it could even be argued that the embargo weakened the opposition and provided the government with a convenient excuse to blame all economic difficulties on the sanctions (Delevic, 1998, p. 84). Still, the embargo led to important concessions by Belgrade: in 1994, Milosevic agreed to cut economic and military ties to the Serb entity in Bosnia and Herzegovina and accepted the deployment of international monitors to verify the implementation of these measures. In addition, and following from a series of military defeats in Bosnia and Herzegovina and growing debt, Milosevic signed the Dayton Peace Accords in 1995. The UN Security Council voted to lift the embargo after this step, while only the United States and the European Union were retaining some measures. Most observers (Cortright and Lopez, 2000; Delevic, 1998) as well as the official report of the United Nations Security Council (1996) come to the conclusion that the trade embargo played an important role in forcing Milosevic into compliance.

A number of lessons can be drawn from the cases discussed above. First, while the sanctions against Yugoslavia were relatively successful, those imposed against Iraq failed to achieve their stated goals and were eventually rendered meaningless by the toppling of Saddam Hussein's regime in 2003. While the European Community was quick to implement measures against Yugoslavia, their less than universal scope and lack of enforcement mechanisms made their success dependent on the willingness of the UN Security Council to follow through. In both cases, it took the UN a comparatively long time to act decisively and to monitor the sanctions. Enforcing the compliance of neighboring states also proved to be particularly difficult. Whereas UN Security Council resolutions are binding for all member states, in reality loopholes exist, particularly in weak states, which creates opportunities for smuggling. It is remarkable that the commercial networks exploiting them have remained largely in the dark; while some attempts have been made to reconstruct the transfer of arms in violation of the embargo (on Yugoslavia for example Berghezan, 1997), the same cannot be said for other commodities. To date, the extent to which commercial companies have attempted to circumvent the trade embargo is not known, even though it seems very likely that oil refining companies were involved in the smuggle of Iraqi crude during the embargo years. Neither the UN nor civil society organizations have publicly attempted to 'name and shame' these operators, which is in stark contrast to what has emerged as standard practice since the late 1990s.

It should also be noted that the embargoes failed in both cases to dislodge the authoritarian government from power. In fact, Sanctions seemed to weaken the capacity for civilian opposition rather than strengthen it, while the ruling elite often benefited from the economic opportunities generated by sanctions-busting. At the same time, the humanitarian consequences for ordinary citizens were dramatic. Even where humanitarian goods were exempted from the trade embargo, the economic crisis hurt the most vulnerable groups in society as health systems collapsed and food insecurity became widespread. This in turn helped to sway international public opinion against the sanctions, with some arguing that a military intervention would be more humane than a long-lasting embargo[2]. Even in the case of Yugoslavia, the international community opted for military action in 1999 over Kosovo rather than attempting to repeat the success of the trade embargo a few years earlier (Paes, 2006a). Generally speaking, during the early 1990s sanctions were mostly used by states as a means of appeasing domestic constituencies while buying time for a consensus to be reached on a particular diplomatic or military solution. With regard to Yugoslavia, Mueller (1994, p. 363) notes that sanctions were seen as an "inexpensive and potentially potent weapon" that were not necessarily more effective than other instruments, but rather more practical considering the unknown cost of military intervention.

Making sanctions 'smarter' and more 'targeted'

As the examples discussed above show, the usefulness of comprehensive trade embargoes as diplomatic tools depends to a large extent on the ability of the sanctioning body to mobilize sufficient resources to effectively cut trade links with the outside world and to minimize sanctions-busting. However, even where sanction regimes have been relatively successful, as in the case of Yugoslavia, this success has carried a high humanitarian price. Western democracies often find it difficult to defend the decision to enforce comprehensive embargoes against a barrage of criticism from domestic and international media. Ruthless political leaders such as Saddam Hussein and Slobodan Milosevic have exploited this weakness of the international community by holding their population hostage—deliberately hindering humanitarian relief efforts—and by using human suffering for propaganda purposes. In some instances, such as in the case of Iraq, this has led to concessions in the application of the sanctions, which in turn have weakened their impact.

Faced with lessons learned from three different sanctions regimes, including Iraq and Yugoslavia[3], policymakers and academics have focused in the late 1990s on making sanctions 'smarter' and more 'targeted'. They suggest that the ideal instrument would allow the international community to put pressure on the political elites without the 'collateral damage' of impoverishing large parts of the population (Brzoska, 2001). Among the measures discussed in this context are travel restrictions, the freezing of bank accounts and other assets for selected individuals, the banning of certain exports to key countries (e.g. equipment for oil

exploration in Libya), and target sanctions on specific commodities that have proven to be of particular importance in fuelling repression and civil wars. UN Security Council mandated travel restrictions and financial sanctions are currently being used against Liberia (targeting the former President, Charles Taylor, and his henchmen) and Zimbabwe's ruling elite by the EU and the US (Croll et al., 2005). Commodity sanctions are also increasingly being used by the UN, particularly in cases where rebel groups (rather than states) are being targeted, and who frequently use the revenue from such resources as timber, diamonds or drugs to finance their operations.

The first case of a targeted UN commodity embargo dates back to 1992, when the UN Security Council passed Resolution 792, imposing a ban on timber exports from areas under the control of the Khmer Rouge movement in Cambodia. After the government in Beijing stopped the supply of arms and other goods in the wake of the peace negotiations, the Khmer Rouge had turned to the looting of natural resources to finance their operations. While the movement only controlled some 10 percent of Cambodia's territory, the area under its control provided significant forest and mineral (particularly gemstone) resources. The Khmer Rouge allegedly generated some US$ 20 million from these resources, with most of the goods being exported across the Thai border in collusion with Thai army and private business interests (Shawcross, 1994, p. 17). The enforcement of the sanctions was largely the responsibility of UN Military Observers and the authorities of the neighboring states. The military observers, however, lacked the mandate to make arrests (Le Billion, 2005, p. 61) and while Laos, Vietnam and Thailand announced their support of the timber ban, implementation remained spotty (Cortright and Lopez, 2000, p. 141). This was particularly the case in Thailand, whose border regions had long established trade links with territories under the control of the Khmer Rouge. According to some reports, 70,000 Thai jobs depended on logging and mining operations in Cambodia (*Japan Economic Newswire*, 3 December 1992) and the total volume of the cross-border trade was estimated at US$ 300 million annually (*Far Eastern Economic Review*, 30 July 1992). Thai officials in the border regions had significant economic stakes in the trade with the Khmer Rouge, and thus it comes as no surprise that the timber export continued largely unabated (Oxfam America, 1995, p. 11). Despite these limitations, UN observers reported a sinking number of embargo violations and claim that the volume of exported timber fell from 48,094 cubic meters in January 1993 to 2,345 cubic meters in March 1993 (United Nations Security Council, 1993). These reports, and the undisputed fact that the Khmer Rouge lost military and political ground from 1991 onwards, have led some analysts (Cortright and Lopez, 2000, pp. 142–144) to consider the sanctions a qualified success. Others, such as Le Billion (2005, p. 61), have been more skeptical, pointing to the fact that timber exports were only 20 percent lower in 1993 than in 1992 and 1994 respectively, while the trade in gemstones continued largely unabated.

By contrast, the UN has been more successful with the sanctions imposed against Angola's insurgent movement, UNITA. At first glance, this might come as a surprise since the UN's role in the almost four decades of Angola's civil war has been mainly characterized by incompetence and failure (Cortright and Lopez, 2000). However, while the arms embargo of the early to mid-1990s was largely symbolic in nature, the adoption of smart sanctions and particularly the targeting of UNITA's diamond revenues beginning in 1997 played an important role in their defeat in the arms race against the Angolan government (Paes, 2006b). This relative success explains why the example of the Angolan sanctions is used as blueprint for similar situations, most notably in Sierra Leone and Liberia. Under the charismatic leadership of Jonas Savimbi, UNITA had enjoyed the successive support of Beijing, Washington DC, Pretoria and Kinshasa in their armed campaign against the government in Luanda. Fighting a guerilla campaign on the country's periphery, UNITA had no indigenous arms manufacturing capacity and therefore relied until the mid-1990s on South Africa (and to a lesser extent on the former Zaire) for the supply of arms, ammunition, fuel and even uniforms and food (Potgieter, 1999). Following the end of the Cold War, however, UNITA had to find new sources of revenue to finance the continuation of its struggle, which eventually came from the exploitation of the substantial alluvial diamond deposits near the Zambian and Congolese border. While UNITA had initially taken over abandoned mining sites and used its own manpower to search for diamonds, the movement soon involved independent operators and moved from direct exploitation to taxation. Under this scheme, foreign entrepreneurs bought permits from UNITA and provided capital, while UNITA recruited contract laborers (often from the former Zaire) and provided security (Dietrich, 1999). Angola's total revenue from diamond production is often quoted as US$ 3.72 billion for the period from 1992 to 1998 (Global Witness, 1998, p. 4), even though this number refers to the value of all Angolan diamonds sold outside of government channels and not the profit earned by UNITA, which would be significantly lower (Hodges, 2001, pp. 152–153). Diamonds at that time were one of the best commodities for an insurgent group to exploit, as the diamond market was at the same time both highly centralized (in the Belgian city of Antwerp) and characterized by a high number of buyers, polishers and retailers (Campbell, 2002). The physical

characteristics of rough diamonds also means that high values can be easily concealed on an individual and the original source hidden, which rendered it possible to export diamonds from UNITA territories with genuine documents from Zambia or the former Zaire.

Faced with growing criticism by civil society over its failure to achieve peace in Angola, as well as the almost complete diplomatic isolation of Jonas Savimbi following his abandonment of the peace process in the late 1990s, the UN was ready to get serious about sanctioning UNITA. A new brand of top-level diplomats took their seats in the Security Council, which harbored no Cold War-era sympathies for UNITA and took a critical look at UN engagement in Angola. For example, Canadian Ambassador, Robert Fowler, once likened the existing (arms and fuel) embargo against UNITA to "traffic rules", and was quoted (in Hodges, 2001, p. 154) as saying that since "nobody enforced them, people drove where they wanted and parked all over the place. It was a complete disaster". This was about to change in August 1997 when the Security Council imposed travel sanctions against top UNITA cadres, prohibited flights to UNITA-held territories and mandated member states to close UNITA offices abroad. The sanctions were further tightened in June 1998 when the Security Council froze all financial assets of the movement and crucially imposed an embargo on diamond imports not certified by the Angolan government. Realizing that the enforcement of these measures would be a challenge, the UN Security Council appointed Fowler as the new chair of the Sanctions Committee, tasked with monitoring development in Angola. Unlike his predecessors, Fowler was not content with simply watching the situation from New York and influenced the committee to adopt "a more assertive monitoring and enforcement role" (Cortright and Lopez, 2002, p. 65). He set out on an extended trip to Central and Southern Africa in May 1999, followed by another trip to Europe in July of the same year, talking to both governments and private sector representatives with the aim of finding ways to enhance the effectiveness of sanctions against UNITA. The reports of his missions, collectively known as the "Fowler report", were issued in the summer of 1999 and detailed a number of recommendations on how to improve the effectiveness of the embargo (United Nations Security Council, 1999a; 1999b). The investigative work of the committee was continued by a panel of experts convened by the United Nations in May 1999, whose report (presented in March 2000) created an enormous stir in diplomatic circles. In plain language, the report implicated Togo and Burkina Faso as countries assisting UNITA in sanctions-busting, pointing towards Presidents Eyadema and Compaorè respectively as receiving direct payments from Savimbi for their services. It was equally hard-hitting on the providers of military equipment in breach of the military sanctions and named several Eastern European countries—including Bulgaria, Belarus and Russia—as sources for UNITA's arsenal. Finally, the report criticized Belgium as the host of the world's most important diamond bourse, for its "lax regulatory environment" regarding diamond imports (United Nations Security Council, 2000a: paragraphs 89 and 90).

Whereas much of the information publicized by the panel reports had already been available to experts, the fact that the UN, for the first time, actually named people, countries and specific companies involved in sanctions-busting raised the profile of the allegations and generated a great deal of attention in the international news media. This practice has since become known as 'naming and shaming' and arguably has contributed to policy changes in a number of concerned countries. As Cortright and Lopez (2002, p. 67) note, "despite the controversy generated by the report—perhaps even because of it—the work of the panel of experts produced results". This process was further assisted by the activities of NGOs such as Global Witness, which targeted the diamond industry with similar reports of their own (see Box 5 on De Beers on pp. 60–61) and highlighted the complicity of diamond giant De Beers in financing the Angolan civil war (Global Witness, 1998). The threat of consumer boycotts during the crucial Christmas season, as well as changes in their overall corporate strategy, motivated De Beers in October 1999 to stop all buying in the 'open market' (Paes, 2005). By the beginning of 2000, the company had closed their remaining buying offices in Guinea and in the Democratic Republic of Congo (which were targeting artisanial miners from war-torn West and Central Africa) and guaranteed that all stones marketed by the company came either from its own mines or from contractual sources outside of 'rebel areas' (Bone, 2004, p. 130).

Three years after the UN began their hard-nosed approach *vis-à-vis* UNITA with the appointment of Robert Fowler, Angola's civil war came to an end following the death of Jonas Savimbi on the battlefield in February 2002. It is difficult to measure which role the sanctions played in bringing UNITA to its knees; however, the evidence collected by the UN suggests that the group was running low on fuel, food, ammunition and other supplies towards the end of the conflict as a consequence of the sanctions (United Nations Security Council, 2002; also Paes, 2006b). Furthermore, Savimbi had lost control of key mining areas in 1998, which combined with the increased difficulty in selling his diamond cache on the global market, rendered his financial status increasingly precarious. Whereas the Angolan government—riding on an oil bonanza and unimpeded by international sanctions—was rearming its forces, UNITA was quickly losing the arms race. A combination of international 'naming and shaming' and strong-arm policies against countries suspected of assisting

UNITA (including by providing support to Luanda's armed insurrections in Zaire and the Republic of Congo) meant that compliance with the sanctions imposed by the UN improved in the final years of the conflict. While the embargo certainly was not the only factor in ending Angola's civil war, it certainly played an important role for the international community in pioneering instruments, such as experts panels, and contributed to the development of the Kimberley Process (Rupiya, 2005).

The second significant case of an international embargo involving diamonds was imposed on Sierra Leone in 2000. At that time, the country had been at war for almost a decade, pitting the Liberian-backed Revolutionary United Front (RUF) against the military government in Freetown (Keen, 2005). Other parties involved in the conflict included the Nigerian-led regional ECOMOG peacekeeping force (1997–2000), local self-defense groups, as well as UN peacekeepers (from 2000 onwards). While the conflict had deeper social and political causes (Richards, 1996), natural resources and particularly diamonds played an important role in bankrolling the conflict. With Sierra Leone's capital Freetown, under government control, diamonds from RUF-controlled areas were exported via neighboring Liberia with the collusion of warlord-turned-President Charles Taylor in Monrovia, in turn the country also served as a conduit for arms and other equipment going to the rebels. In 1995 alone, US$ 300–500 million worth of diamonds and gold, US$ 53 million worth of timber and US$ 27 million worth of rubber were exported from Liberia (Adebayo, 2002, pp. 47–48), with a significant proportion of the diamonds stemming from Sierra Leone. As in the case of UNITA in Angola, RUF initially mined diamonds themselves but later relied on independent diggers who were allowed to retain a share of the diamonds in exchange for their labor. Diamond buyers, many of them from West Africa's influential Lebanese merchant class, set up shop in the diamond areas and organized the shipping of stones from Sierra Leone to the markets in Antwerp and Beirut (Pugh and Cooper, 2004: 104-105). In addition to Liberia, Gambia also played an important role in this trade. Despite the fact that it has no diamond mines of its own, the small country exported over US$ 100 million worth of stones per year between 1996 and 1999, with an estimated 90 percent originally coming from Sierra Leone (United Nations Security Council, 2000b). The complex nature of the diamond market and the involvement of brokers and middlemen indicate that not all of the revenue from these sales actually ended up with the RUF, though their average annual earnings in the 1990s are estimated to be between US$ 25 million and US$ 100 million (Pugh and Cooper, 2004, p. 108). However, the chaos of the civil war had a direct negative impact on the government adversaries in Sierra Leone, which saw their own revenue from mineral exports (diamonds, gold, bauxite and rutile) plunge from US$ 134 million in 1991 to

Table 2: Major importers of Liberian timber in 2001

Source: *Global Witness 2002: 16*

Importing Company	*Importing Country*	*Supplier in Liberia*
Global Star (Asia) Trading	Singapore	Oriental Timber Company
DLH Nordisk	Denmark	Maryland Wood Processing Industries
Timber Trade Service	Italy	Oriental Timber Company
Messr. Bonomi	Italy	Oriental Timber Company
HBT Holzhandel	Germany	Oriental Timber Company
TREEMEX	Germany	Oriental Timber Company
SIBA	Senegal	Oriental Timber Company
TECNOALP	Italy	Oriental Timber Company
General Wood	United Kingdom	Oriental Timber Company
Simla Trade	India	Oriental Timber Company
World Best Trading	Dubai	Oriental Timber Company

less than US$ 1 million by the mid-1990s (Reno, 1999, p. 127), giving RUF the edge in the country's arms race and indirectly contributing to the military coup in Freetown in May 1997.

Despite the crucial role of diamonds in the financing of Sierra Leone's civil war it took the UN nine years—until July 2000—to impose an embargo on the import of stones from areas not under government control. Only diamonds being accompanied with a tamperproof certificate of origin—which was introduced in October 2000—were to be exempted from this. While both the UN and the Economic Community of West African States (ECOWAS) had imposed arms and oil embargoes against Sierra Leone and Liberia since the early 1990s, these measures did not have any impact on the conflict (Cortright and Lopez, 2000; Cortright and Lopez, 2002). By contrast, the diamond embargo and the appointment of a panel of experts was the direct result of the new international focus on conflict diamonds which developed in the late 1990s as a result of Global Witness high profile reports on the link between UNITA violence and diamond exploitation (Pugh and Cooper, 2004, p. 117). Remarkably, the UN also took decisive action against Liberia for aiding and abetting the RUF by imposing a set of sanctions including an assets freeze, travel ban and diamond embargo in May 2001, the only case of "secondary sanctions" for sanctions-busting so far.

These sanctions did not fail to have an impact on Sierra Leone; in fact, officially-recorded diamond sales from that country actually rose from a mere US$ 1.2 million in 1999 to US$ 26 million in 2001 (Pugh and Cooper, 2004, p. 118). The military tide was turning against RUF from 2000 onwards, with substantial UN Peacekeeping forces (often in de facto alliance with local self-defense groups) gaining ground against the rebels and the remnants of the military junta. After the humiliating capture of 500 blue helmets by RUF in May 2000, the strength of the mission was increased to more than 17,000 soldiers with a more robust mandate as well as a more capable leadership. RUF (and its Liberian) allies were also increasingly coming under military pressure from Guinea in 2001, partially in response to armed incursions by RUF-affiliated elements into Guinean territory (Keen, 2005, p. 268). Charles Taylor, who was facing increasing armed opposition in Liberia, cut most ties with RUF and in 2002 the civil war in Sierra Leone finally came to and end. In contrast, the civil war in Liberia dragged on for another year until the summer of 2003. Having been cut off from Sierra Leone's diamond fields since 2000, Charles Taylor was forced to diversify his group's commodity base. In addition to the revenue from rubber exports (which continued throughout the civil war), timber became increasingly important as a source of foreign currency. Internationally isolated and subject to an arms embargo, logging firms such as the Oriental Timber Company (OTC) played an important role as a conduit for the rebel leader. According to Global Witness (2001; 2002; 2003) OTC and a smaller competitor, Maryland Wood Processing Industries (MWPI), in effect served as a procurement agency for the Liberian government, importing arms via its own port in Buchanan and then organizing their transfer over logging roads to Taylor's besieged forces upcountry. According to media reports, OTC also maintained a company police force of 2,500 men, which engaged in battles with opposition forces. What is more, OTC and other international timber companies channeled funds into bank accounts used to pay for the import of arms, ammunition and fuel for Taylor's militias (Global Witness, 2003). According to Global Witness (2003: 44) the forest sector was valued at US$ 186 million annually in 2000, with much of the money being used to enrich Taylor's henchmen and to finance the war effort. Given the fact that with China and France two permanent members of the Security Council accounted for the largest share of Liberia's timber exports, it is not surprising that the UN only imposed an embargo on Liberian timber in 2003. This embargo was also criticized by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) as the embargo threatened some 10,000 jobs in the timber industry (OCHA, 2001), a figure disputed by Global Witness (2003, p. 44). In the summer of 2003, Taylor was undergoing bitter fighting in Monrovia and, facing likely defeat, opted for political exile in Nigeria. This paved the way for a comprehensive peace agreement and the deployment of a robust peacekeeping mission. As sanctions were imposed only a few months before his departure, it is difficult to judge whether they changed the course of the war. Currently, the sanctions against Liberia remain in place, though some observers argue that small-scale logging and exports continue, as neither the interim government nor the UN Mission in Liberia (UNMIL) have made adequate attempts at controlling the forest sector (Global Witness, 2005). However, this presents a classic 'catch-22' situation, for the lack of government revenue from the forest sector is in part responsible for the lack of institutional capacity in controlling it.

Lessons learned from the 'Sanctions Decade'

A number of lessons can be drawn from the experience with international sanctions regimes since the end of the Cold War. For starters, sanctions imposed by the UN are potentially more promising than those of regional organizations (e.g. EU, OAS or ECOWAS), since the targeted state is left with no legal opportunity to seek alternative markets and suppliers. Furthermore, UN embargoes are binding for all member states and, while there will always be loopholes and officials willing to look the other way in

the case of sanctions-busting, the diplomatic damage of being 'named and shamed' in a UN report may serve as a deterrent even in less than democratic states. Secondly, sanctions are often driven by the governments of industrialized states who face little or no economic damage from the disruption of trade with the targeted state. By contrast, both the cost of effectively enforcing an embargo and the lost revenue from trade is usually borne by developing countries. Here, the international community has a responsibility to assist the affected states both technically in improving border monitoring, as well as financially with regard to compensation for lost trade. As far as the first issue is concerned, the 'Sanctions Assistance Missions' deployed in the Balkans during the embargo against Yugoslavia might well serve as an example (Paes, 2006a). The credibility of industrialized countries would also be served well if no exceptions were made with regard to their own economic interests (as was the case of US-owned companies in Haiti during the OAS embargo) and if allied states were not treated differently in the case of sanctions-busting (as in the case of Jordan and Turkey during the Iraq embargo). Another lesson learned is that the humanitarian impact of a sanctions regime has often had a direct impact on their effectiveness. In the wake of Iraq and, to a lesser extent the experience in Yugoslavia, the international community has become very cautious in implementing comprehensive trade embargoes, preferring more targeted measures in order to contain international protests about deteriorating conditions for the civilian population. However, as the case of the timber embargo against Liberia illustrates, even selective sanctions cost jobs and are therefore often controversial.

The one area where there have been significant improvements during the past decade is the use of 'naming and shaming' as a policy instrument. This has become an important enforcement tool aimed at identifying and, where possible, convicting sanction busters. The creation of independent 'panels of experts' has allowed investigative work to be carried out beyond the confines of diplomatic protocol. Relatively cheap at about US$ 1 million for a team of five people over a six month period, the panels have no judicial powers but rather rely on voluntary testimonies and information from member states and international agencies (Le Billion, 2005, p. 62). Having been set up for the first time in 2000 following the 'Fowler Report' in the case of Angola, this model has been replicated inter alia in Liberia, Sierra Leone, Somalia and most recently Côte d'Ivoire. The research activities of those panels are usually complemented by media reporting and advocacy work stimulated by international organizations such as Global Witness, Human Rights Watch and others, which help reinforce the panels' impact. While usually applied as an element of international sanction regimes, in the case of the Democratic Republic of Congo (DRC), an expert panel was created as a stand-alone enforcement measure by the UN Security Council. Tasked with investigating the looting of natural resources and other forms of wealth by the conflict parties, the panels' reports created quite a stir when they implicated senior politicians from Rwanda and Uganda as stakeholders in those companies benefiting from the plunder of eastern DRC. Furthermore, the panel reports played an important role in exposing the involvement of European and North American companies, who contributed to the country's war economy by importing minerals such as Coltan from the country's conflict zones. In the absence of a commodity embargo against the DRC[4] (not to mention a secondary sanctions regime against Rwanda or Uganda), the publicity generated by the panel reports, as well as the advocacy work of some NGOs has played an important role in changing corporate behavior vis-à-vis DRC-based suppliers (see Box 4 on HC Starck on pp. 49–50). It has also motivated Belgian airline SABENA to stop the transport of Coltan from Kigali, and may have influenced the decision of the Rwandan and Ugandan governments to withdraw overt support for rebel forces in the DRC (Le Billion, 2005, p. 61). Despite this progress, the panel's reports only provide a glimpse at the complex economic pattern of conflict societies.

Diamond office in Freetown, Sierra Leone.

Whereas 'naming and shaming' may have an impact on governments and larger companies concerned about their international reputation, there remains to be a great deal of room to maneuver for rogue operators who remain unconcerned about their international record.

Private companies usually respect the law of the land and therefore withdraw from countries after an embargo is imposed either by their own national government or by the United Nations Security Council. At the same time, few companies decide to withdraw from potentially lucrative investments purely

because of ethical concerns. The decision to continue operations in conflict zones (or to import products from those areas) is usually justified by the provision of jobs, social services and economic 'trickle down' stimuli (Maresca, 2004, p. 125). While many companies decide to withdraw in the face of conflict, this is usually because of the concern for the security of staff and company installations and not because companies question their own role in fuelling the conflict. Extractive companies—whether dealing in oil, timber or other resources—usually opt to remain on site as long as the potential profits outweigh the security risks, as was witnessed in Liberia, Sierra Leone, the DRC or in the Niger Delta. Therefore, it is of particular interest to see how companies deal with the threat of sanctions and with non-universal embargoes. Unfortunately, comparatively little has been published with regard to lobbying efforts of private firms to avoid the imposition of sanctions. Rupiya (2005, p. 7) argues with regard to the expert panel on the exploitation of natural resources in the DRC that large companies lobbied their governments to withhold their names from the report, a practice which would put smaller companies and those from countries without representation in the Security Council at a disadvantage[5]. Larger companies also have more sophisticated public relations machines and are therefore better placed to manage the media disaster triggered by being named by UN panels or advocacy organizations. Unless oil is concerned, in which case both corporate and national interests intersect, these lobbying efforts have been largely defensive and aimed at preventing being named rather than preventing the imposition of an embargo. For example, despite the fact that France and China as major importers of Liberian timber were permanent members of the Security Council, they did not veto the imposition of a timber embargo against the government in Monrovia. The relative willingness of the private sector to work within the parameters set by international sanctions regimes is also related to the fact that, in all cases thus far, other suppliers were easily found to replace the embargoed country. Sanctions therefore are short-term measures, aimed at forcing companies to sever economic ties with selected countries or armed groups, rather than changing their global behavior. While the case of the Kimberley Process shows that sanctions can lead to the emergence of new international regimes for selected commodities, its success is the result of a peculiar set of conditions (Paes, 2005) and so far has not been replicated with other commodities.

Unfortunately, the international community has also been highly selective in their use of sanctions. The more politically isolated a conflict party or a government is on the world stage, the more likely it is to find itself at the receiving end of an international embargo over human rights violations. Whereas UNITA, RUF and the Taylor-led government of Liberia were without friends in the Security Council, the UN has not yet acted decisively against Sudan in terms of a sanctions regime over the crisis in Darfur because of substantial Russian and Chinese economic interests (Lewis, 2004). Conversely, corrupt and authoritarian regimes in the Gulf of Guinea, such as Nigeria and Angola, have been shielded from such punitive measures most likely by reason of Washington's interest in diversifying its sources of crude oil (Traub-Merz and Yates, 2004). It can therefore be said that, where strategic commodities are concerned, it takes a lot more than human rights violations to achieve a consensus on the application of sanctions among Security Council members. While high profile violators of human rights may therefore enjoy protection as long as they have friends in high places, conflicts that are not often discussed in the international media, such as the civil war in Côte d'Ivoire[1], also fall under the radar unless pursued by international NGOs. Given the dominance of North American and UK-based NGOs in this sector, this has meant that Francophone African states have been subject to considerably less scrutiny than their Anglophone counterparts. It appears, therefore, that an international commodity embargo would be most effective against a relatively insignificant insurgent movement on the geo-strategic periphery that trades in natural resources of little economic significance (e.g. timber, diamonds, but not oil), and that has a poor human rights record. While a lot has been achieved in the 'sanctions decade' with regard to improving the effectiveness of these instruments, it would serve the international community well to broaden their application and thus promote greater compliance with universal norms.

Box 4: De Beers and 'conflict diamonds'

Diamonds are marketed as a 'girl's best friend' and as symbols of eternal love to private consumers, particularly in North America and in the United States. At the same time, however, diamonds have played an important role in bankrolling rebel movements in a number of African countries, such as Angola, the Democratic Republic of Congo (DRC), Liberia and Sierra Leone. The public discussion on this sinister side of the diamond market was triggered by the work of the United Nations Sanctions Committee for Angola (United Nations Security Council, 2000), as well as by the investigative and advocacy work of non-government organizations such as Global Witness (1998), Human Rights Watch (1999) and Partnership Africa Canada (Smillie et al., 2000). Such negative publicity was of particular concern to De Beers Consolidated Mines Limited which, since its incorporation on 13 March 1888 by South African entrepreneur Cecil Rhodes, has sought to control the global trade in raw diamonds. The company is now part of the De Beers Group of DB Investments, a consortium dominated by the Oppenheimer family and by South African mining giant Anglo-American (Campbell, 2002, p. 138).

Diamonds are a form of carbon material and one of the hardest minerals in existence. They result from intense heat and pressure and are propelled to the surface of the earth by volcanic eruptions, breaking through the earth's crust like a mineral fountain (Campbell, 2002, pp. 12–13). While some parts remain underground, forming what is called a "kimberlite pipe", diamonds that have reached the surface have, for several thousands of years, been carried away by water from rains. This explains why they are so often found in riverbeds and near rivermouths in what is referred to as "alluvial deposits". Today, the world's most important producers of diamonds in terms of output are Australia, Botswana, the Russian Federation, the DRC and South Africa. In most of these cases, diamond mining is a capital-intensive industrial activity undertaken by a limited number of highly skilled employees utilizing heavy equipment. De Beers controls diamond production—often in joint-ventures with state-owned companies – in Botswana, Namibia and South Africa, and has contractual agreements with other large mining companies, such as Russian producer Alrosa (Bone, 2004: 130). Kimberlite production from these countries in 2002 accounted for more than US$ 5.2 billion worth of diamonds (Paes, 2005), much of it being controlled by the De Beers Group. This industrial mining is in stark contrast to mining operations targeting alluvial diamond fields. Here, industrial mining is more difficult, as the geographic area in which diamonds can be found is often very expansive. While heavy machinery is employed in diverting rivers and building dams, much of the actual prospecting is done by individual miners using sieves and shovels in a picture reminiscent of the California Gold Rush. Exploiting those deposits requires a lot of manpower, but only limited technical know-how and capital investment, particularly after the deposits have been identified and the riverbeds drained. Often dubbed 'artisanial mining' this technique is the predominant form of diamond extraction in Angola, Liberia, Sierra Leone and parts of the Democratic Republic of Congo. Unlike the large-scale operations in Southern Africa, this form of mining employs several hundreds of thousands miners in West and Central Africa in a complex commercial network—including supporters and traders—that spans half the globe. While De Beers once had a stake in these markets (Pugh and Cooper, 2004: 101), the deteriorating security situation and rampant smuggling in the mid-1990s prompted them to abandon their mining in Western and Central Africa and target the so-called 'outside' or 'open market' by operating buying offices in Guinea and the DRC. According to De Beers' 1996 annual report, the company bought diamonds "in substantial volumes on the open market, both in Africa and in the diamond centers, through its extensive network of buyers often working in difficult conditions". According to the same report "purchases in 1996 reached record levels largely owing to the increased Angolan production", a production which during this period was largely controlled by UNITA rebels (Campbell, 2002).

Aiming at achieving a monopoly and with a stake in virtually all diamond-mining operations, De Beers' business formula was based on the control of the global supply, keeping prices high by stockpiling stones. Diamonds were sold to select buyers – so-called 'sight-holders' – several times per year, who in turn would supply the rest of the industry. As diamonds have limited industrial use, most of their value is based on aesthetics: 80 percent of the total production eventually ends up in the display windows of high-end jewelers where they are then purchased by private consumers. The emergence of suppliers outside of the established channels during the 1990s[1] was therefore of concern to De Beers, which then increased its buying in the open market in an attempt "to support the market" (De Beers, 1996). It is precisely this strategy of targeting stones from conflict areas in West and Central Africa that made De Beers the focus of an international campaign by a group called 'Fatal Transactions', which, in 1999, began to distribute a leaflet to jewelry retailers on 'conflict diamonds' (Bone, 2004: 130). International media attention then followed, with headlines reading: "Diamonds are rebel's best friend" (Sunday Herald); "This little girl has had her hand cut off so that you can wear a diamond ring" (Daily Express); and "The world's purest gems are funding one of the dirtiest wars in history" (TIME Magazine). The juxtaposition of the traditional image

of diamonds as symbols of pure beauty and tokens of eternal love with the gruesome pictures of amputated limbs from Sierra Leone sent shock waves through the industry. According to interviews with industry representatives in Antwerp, Fatal Transactions activists threatened to call for consumer boycotts during this three months period from Hanukkah to Valentine's Day, which accounts for the vast majority of global diamond sales (Author's interview, 12 July 2004).

While Fatal Transactions denies having made those threats (Bone, 2004: 131), the response by De Beers was swift and dramatic. In October 1999, De Beers decided to stop buying Angolan diamonds in the open market and by the end of the year the company had closed its outside buying operations throughout the world (Bone, 2004: 130). Since early 2000, De Beers has guaranteed its customers that diamonds bought from the company do not come from rebel areas and therefore are 'conflict-free' (*BBC Online*, 27 March 2000). This move was welcomed by Fatal Transactions and received positively in the media as well. However, more critical analysts such as François Misser (2000) have noted that De Beers followed economic pressures as much as political ones. Having been the 'buyer of last resort' for decades, the company in 2000 held a stash of more than four billion US$ worth of stones (*The Economist*, 15 July 2000). However, as new suppliers entered the market – drawing both from alluvial deposits and newly discovered kimberlite pipes in Canada – De Beers found it increasingly difficult to defend its near-monopoly. Under these circumstances, the company had to change its commercial strategy and therefore increase the output and retail sales of its own diamonds. Being able to declare them 'conflict free' and therefore 'ethical' certainly improved the image of the company's products, while casting a shadow on all diamonds from other sources. For the same reason, De Beers played a prominent role in the Kimberley Process beginning in 2003, which involved governments, non-governmental organizations and the industry in the development of a mandatory certification scheme aimed at curbing the illegal trade in precious stones (Paes, 2005). While the advocacy work of civil society organizations and the high-profile interest of the UN Security Council in 'conflict diamonds' played an important role in changing the company's strategy, De Beers proved to be resourceful in turning a potential public relations disaster into a commercial advantage.

[1] These suppliers include a number of junior diamond companies with stones coming both from previously untapped kimberlite deposits in Canada and in the Russian Federation, as well as from alluvial production in Western and Central Africa.

Endnotes

[1] Examples of this include the case of Yugoslavia's neighbors during the early 1990s (Paes, 2006a); the wholesale smuggling of crude oil from Iraq to Jordan and Turkey during the inter-war years (Cortright and Lopez, 2002); and the dubious role of Zambia as a conduit for arms, fuel and diamonds to Angola's UNITA movement over the past few decades (Paes, 2006b).

[2] For more on this argument in the case of Yugoslavia, see Lucic and Lynch, 1996, p. 300.

[3] The third comprehensive UN embargo in the 1990s (which was preceded by an OAS embargo) was against Haiti in 1994 and aimed to restore democratically-elected President Aristide to power. However, it failed to have a significant effect as a US-led multinational force drove out the military junta in September 1994 just four months after the UN Security Council imposed the sanctions (Cortright and Lopez, 2000).

[4] Given the high-profile nature of the civil war in the DRC (dubbed "Africa's First World War" by some NGOs), which has claimed the highest number of victims since the end of the Cold War, it is surprising that the UN imposed no commodity embargo despite the work of the expert panel, limiting itself to an (ineffectual) arms embargo since 2003. It is not quite clear why no further steps have been taken, even though some local NGOs have spoken out against an embargo on Coltan as the mining provides much needed employment, despite its role in fuelling the war (Pole Institute, 2002).

[5] This position is shared by representatives of the German refining company, HC Starck, which argues that the company had been unfairly singled out by the UN Security Council over its imports of Coltan from the DRCongo since Germany, unlike the host countries of its competitors, is not a permanent member of the Security Council (Author's Interview, 18 June 2004).

[6] There is significant evidence that agricultural products such as cocoa, cotton, and to a lesser extent commodities such as diamonds and timber play a role in the Ivoirian civil war (ONUCI, 2005). The country has also been mentioned in connection with the violation of the timber embargo against Liberia, while arms and mercenaries are also moving freely between Côte d'Ivoire, Liberia and Guinea (Global Witness, 2005). Nevertheless, the country has only been subject to a poorly-enforced United Nations arms embargo.

The NGO Role: Activist Watchdog or Precious Partner?

Non-governmental organizations (NGOs) have played a crucial role in driving the debate on economic actors in conflicts, especially with regard to multinational enterprises (MNEs). The media and the public have come to perceive NGOs as a moral compass and as ethical investigators of corporate and governmental wrongdoings. An ever-growing number of NGOs is working on the role of business in conflict. Several MNEs have experienced severe pressure to change their policies after NGOs brought problems, misbehavior or negative side-effects of their operations out into the open. Non-profit organizations target various different audiences, from consumers to governments and industry organizations, as well as corporations directly. NGOs have found numerous ways to try to influence corporate behavior for the good, or what they perceive as the good. Sometimes their involvement has led to a company improving its behavior; in other cases, companies have been forced to cease operations in a specific area.

In recent years, corporations have for their part become more interested in issues raised by NGOs and tend to take measures to ensure that their operations are responsible and sustainable. The idea that business needs a 'social license to operate' is becoming more and more widespread. Besides the old antagonistic relationship—that, contrary to some reports, is still very much alive—the relationship between NGOs and business has developed a new feature. New forms of cooperation, collaboration and even partnership have emerged over the last years, bringing with them a range of possibilities—but also problems. The move towards cooperation is there, but constitutes a highly dialectical development.

To start with, defining both non-governmental organizations and 'business' or corporate actors can prove to be problematic. First, both are obviously 'catch-all' concepts, consisting of large numbers of individual actors who might not be easily generalized. The size of an NGO, the location of its headquarters, its financial situation—all these play a role in its decision-making and potential effectiveness. For corporations, this is even more so the case. Large multinationals with headquarters in Europe or North America are more likely to be susceptive to notions of 'corporate citizenship', being under closer scrutiny by both governments and NGOs in their home countries. Companies based in countries that do not have a positive record with regard to such issues as human rights, for instance, will be less likely to have developed strategies to ensure that their company performance does not have a negative impact on the human rights situation in their host country. Second, the diversity of the non-governmental sector implies that there is no such thing as '*the* NGO perspective'. Third, an obvious hazard in the study of NGO activism is to neglect the possibility that even the most well-known and active civil society groups do not necessarily reflect the opinion of the wider public, or even the portion of the public that the NGO claims to represent. As activists are not chosen representatives, accountability remains a critical issue, though several positive developments in this regard have taken place.

A last possible problem is that the exponential growth in the number of NGOs over the last years, together with growing interest by the business world and governments, has as a side effect led to the emergence of a set of concepts and jargon that tends to dilute the understanding of real issues, rather than making them clearer. What's more, a concept used by an NGO may have a different meaning for a business manager. For instance, what constitutes a 'stakeholder' to an NGO may not be the same as for a corporation. One business manager, for instance, defined 'stakeholder' as "anyone who can do you harm".

Variety of roles

There are many different roles that an NGO can play in relationship to business, and organizations usually play several roles at the same time. Many of these are related or have a large overlap. The different roles elaborated below are those of activists, 'watchdogs', researchers, consultants, facilitators and stakeholders. This list is by no means exhaustive and the distinction between differing roles may be somewhat arbitrary. It does, however, provides a starting point for the analysis of the NGO role with regard to the role of 'business in conflict'.

Activism

In the collective mind, NGOs are almost synonymous with activism. Non-governmental power is the result of the large amount of public trust that is usually bestowed upon these organizations. The main 'not-for-profit' weapon is the assault on corporate reputations, usually through the mass media. Several large MNEs have experienced just how much damage a public campaign can do to their businesses. The public campaign against the oil multinational Shell in Europe, after the execution in 1995 of nine Ogoni activists by the Nigerian military regime, is a prime example of this. The Ogoni constitute a very small minority in the Niger Delta, living in an area that is rich in oil. A conjunction of oil

pipelines run through the Delta. The activists had been campaigning against oil multinationals and oil exploration because of human rights abuses by the federal state security forces, severe environmental degradation of their homelands, and the deplorable situation in which Ogonis had to live. Their charismatic leader, Ken Saro-Wiwa, had succeeded in putting the Ogoni issue on the international agenda, but he had to pay a high price for his activism. During the trial, international pressure mounted on Shell to try to mediate between the parties or pressure the government to free the activists. The company refused, and (like other oil companies in the region) stated that the violence in the Delta was an affair to be handled by the Nigerian state and that companies where just there to conduct business. In the company's view, it could not meddle with the affairs of the Nigerian Government.[1]

International reactions came soon after the execution of Saro-Wiwa and his group by the military regime. Several NGOs such as Amnesty International and Greenpeace commenced protest actions. The actions were both small- and large-scale: besides calling for a boycott of oil products from companies operating in Nigeria, there were picket lines at Shell gas stations around the world, from the United States to India.[2] Shell did not help matters much by announcing that it would go ahead with its planned investment of US $5 billion in the construction of a Liquefied Natural Gas (LNG) plant in Nigeria, despite the international protests.

One of the successes of the campaigns was that, under extreme pressure, the International Finance Corporation decided not to supply a US $100 million dollar loan and a US $80 million dollar equity to Nigeria LNG, a joint venture between the Nigerian government and the major foreign oil companies in the country, for the construction of a gas plant and gas pipeline in the Delta (see Box 6 on pp. 71–72).[3]

So-called 'naming and shaming' campaigns are mostly directed at large multinational companies, with headquarters in the country where the NGO undertaking the campaign is also based. The campaigns are usually built up around one specific theme and are most successful when directed at a single company. The type of company subjected to the campaign is of great importance. It is the most feasible to campaign against a corporation that sells end products to consumers because this will make direct action, such as boycotts, possible. Other instruments which impose costs on companies include litigation, shareholder activism and social investment, grassroots mobilization, public demonstrations, influencing legislators, third-party certification, and more. Many of these actions aim at forcing a company to leave the area in which it is having a negative impact (Haufler, 2001a, p. 663). While this is of course the most ethical thing to do, in practice it can have a negative effect. In the extractive industries, a company leaving an area will usually be replaced by another company and this replacing company may have an even worse reputation, or even worse policies, than the company that was forced to leave. For instance, when the Canadian oil company Talisman was forced to retreat from Sudan, a country experiencing civil war, its place was taken by a Chinese and an Indian oil company: leaving aside the issue of sustainable company policies, non-governmental organizations active in Sudan did not have an established working relationship with these new players, something that they had had with Talisman. The process of interaction that had begun with Talisman had to start all over again, and the NGOs probably had less leverage over the new companies than they had had over Talisman.

Talisman does not operate petrol stations. This ruled out a public boycotting of Talisman products as a potential activist's tool. Instead, NGOs decided to put pressure on the company's shareholders. In 2000, at the annual shareholders meeting, a motion was put in, calling for an independent audit of Talisman's operations in Sudan. The motion did not get approved, but a substantial percentage of shareholders supported it. In 2002, the Christian organization Kairos started a public campaign against the Canada Pension Plan, which had large interests in Talisman. Facing possible disinvestment by large shareholders and even a threat of being de-listed from the New York Stock Exchange, the company decided to sell its operations in Sudan and pull out (Lewis, 2004).

Public campaigns are one of the most effective and direct methods used by NGOs, and business can be put under serious pressure in some cases. Timing and the use of media are among the most important factors deciding success or failure of a campaign. An interesting example of this is the interaction between Fatal Transactions, a campaign involving a group of NGOs working on 'conflict diamonds', and the diamond company De Beers. Allegedly, Fatal Transaction campaigners threatened De Beers that they would call for a consumer boycott during Chanuka and Valentine's day. This period is by far the most important in terms of sales for De Beers (Paes, 2005). The Fatal Transactions campaign is not calling for a consumer boycott of diamonds in general, but wants to assure that diamonds (and other resources) are not used to fuel conflict and human rights violations. For this, it calls upon the public to demand that the diamond industry implement effective control mechanisms to ensure that conflict diamonds do not make their way onto the legitimate market. The campaign, along with other stakeholders, has been instrumental in clearing the ground for the Kimberley Process, the diamond

certification scheme that aims to provide all necessary information about the origin of each package of diamonds.

The involvement of NGOs in the Kimberley process, such as Global Witness and Partnership Africa Canada who have taken part in the working group on monitoring, is in stark contrast to earlier campaigns.[4] It shows that the relationship between civil society and corporations is becoming more diverse than it used to be and that, besides confrontation, collaboration is more and more of an option. With regard to the Ogoni crisis in the Niger Delta, NGO campaigns were negative, bluntly calling for Shell to 'get out of Nigeria', which the company did not. Years later, at the Johannesburg Conference in 2002, Greenpeace shared the platform with Shell, something that had not been imaginable a decade earlier.[5] It shows that NGO representatives no longer only stand outside in the picket line. Sometimes—and more and more often—they have become actively involved participants. It is therefore up to business to consolidate this situation, by taking this development seriously and by going further than just 'issue management' or PR. Only transparent and truly committed efforts will get the most out of collaborative relationships between civil society and corporate actors. All in all, 'engagement' is the new 'buzz-word'. (See Box 5 (De Beers) on pp. 60–61.)

Keeping an eye on company performance

A second role is that of 'watchdog', monitoring a company's performance and the effect of its operations on the environment, human rights and a society or community as a whole. If a company's impact is seen as negative, activists will try to raise public awareness and pressure the company to either pull out or improve its performance. Linkages between local NGOs in the area of operation and organizations in the home country of an MNE have proven to be of great value in this respect. This works both ways: the local NGO can provide useful information to its (often Western) counterpart, being present on the ground and being close to actual business operations; Western NGOs can often help in terms of resources, but are also better connected to company officials at corporate headquarters outside of the operation environment. This is shown for example by the story of an NGO worker in the Niger Delta, who was trying to get a local office of an international oil company to meet him and only succeeded in getting an invitation by flying to Europe first and visiting company headquarters there.[6]

An example of a watchdog NGO that is active with regard to the extractive industries is the Mining Advocacy Network, JATAM. It is a network of NGOs that reports on the interactions between the mining industry and indigenous peoples. For instance, it is campaigning for renegotiation of the Freeport-Rio Tinto Contract of Work that was signed between the Indonesian regime and the mining company Freeport in 1967. The contract omits several important obligations, such as adherence to international environmental standards, payment of royalties, payment of environmental reclamation bonds, regulations for mine closure, cooperation with local communities, and calculations on the value and price of mineral deposits.[7] The monitoring of Rio Tinto is just one of many examples of the work of JATAM. Its focus is to raise public awareness of the way the Indonesian extractive industries conduct themselves and the devastating implications thereof.

NGOs watch 'responsible' companies with great interest and, in contrast to corporate beliefs, can be very satisfied about the progress that is being made. It is a fact that some companies lag so much behind others in the same type of business that it is a cause for concern. Many business executives tend to be suspicious of monitoring activities by advocacy groups, because of a perception that these groups are not capable of being fully independent and impartial. Here also, partnering seems to be the solution. In order to safeguard the credibility of NGOs, the rules and regulations, principles, guidelines and benchmarks they try to hold companies accountable to need to be established in a joint effort by the corporate sector, civil society and governments. Furthermore, NGOs should ensure that they themselves are accountable to the same rules and principles that they want corporations to subscribe to.

Oil spill site in Niger Delta, Nigeria

Power through knowledge

Third, both local and international NGOs have served as a source of knowledge and ideas on how business could engage responsibly and constructively. Many of the NGOs have been around for quite some time and have worked on other issues in the same area before. Their experience and expertise can be of immense value to the private sector. Some organizations that were previously working on labor issues or environmental degradation

have taken up conflict issues as a new scope for their activities (Berman, 2000). Though it seems that NGO reports have not yet found their way into academic research, students of business-NGO relations and the role of business in conflict could gain a lot from such reports. An interesting analysis of NGO reports is offered by Pegg and Wilson who compare six such reports and ask what they can, and cannot, contribute to academic research. For example, an important contribution that NGO reports make is that their information is up-to-date. Not only do the reports tend to have a deeper level of analysis than newspaper reports, but information cited is also more relevant, while the time between the writing and publishing of the report is usually shorter than that of an academic paper. In addition, NGO reports tend to be far more widely available than academic ones (Pegg and Wilson, 2002).

A good example of an NGO report which has become a source of specialist knowledge is "Bottom of the Barrel: Africa's Oil Boom and the Poor" by Catholic Relief Services (CRS). It was published in 2003 and, besides providing a general analysis of oil revenues and poverty reduction in Africa, contains several insightful case studies. By combining high-quality research with advocacy work, it is a valuable document to industry, governments, activists and stakeholders alike.

Consultancy

A fourth role is that of advisor or consultant. Such NGOs work closely together with business, offering their advice and expertise. This is the most direct way of engaging corporate behavior and of trying to influence it. However, it is not hard to see that this can be a problematic role for a non-profit organization and may potentially do a lot of damage to its reputation for independence. For instance, the issue of payment for services delivered can be a problem. Companies will usually prefer to pay for advice or consultancy work: in their eyes knowledge is something that can be bought and the NGO is providing a service. But for the NGO, accepting funds from a company could mean a serious threat to its independent role and especially to its possibilities for deciding how to use the information obtained. It could also have a negative effect on its public image, which in turn could influence its powerbase and financial resources. What is more, in engaging in a commercial relationship with the private sector, an NGO is at risk of losing its neutrality or its ability to monitor corporations independently. But, as some NGOs argue, there is no use in 'preaching for the converted'.[8] Working only with companies that have a clean record will not change much about the behavior of companies in general. In any case, few civil society organizations have the luxury of a set income, and funding is frequently all but secure.

Sometimes, it is not monetary payments that present difficulties for non-profit organizations: for instance, arranging transport for NGO researchers to remote areas where a company is active might sometimes only be possible by using company infrastructure.

Though not a consultancy-NGO *per se*, the London-based NGO International Alert (IA) has done some groundbreaking work on the role of the private sector in conflicts. It aims not only at providing an overview of the problem, but at practical recommendations, and tries to find solutions or ameliorating policy options. It has recently published a guide for business managers to help them anticipate, monitor and assess the interactions of their company's operations with the dynamics of a conflict (International Alert, 2005).

NGOs as facilitators

Fifth, NGOs can also play the role of facilitator, bringing together local populations with company executives, organizing discussions and forums, and putting items on the international agenda. NGOs can be a medium of communication, often well-connected and able to use different channels at different levels. An effective tool here is personal contact with officials from governments and corporations. Many NGOs have learned that it is more effective to know the opponent and engage him inside the conference halls instead of standing outside in the picket line. Partnerships often rely on NGOs to represent the interests of civil society. Furthermore, NGOs have more freedom than companies to engage in political issues, for instance a critical view of local governance. A civil society organization will be more able to critically encounter government.

As Michael Warner notes, companies cannot be "all things to all stakeholders" (Warner 2003, p. 3). Partnering with additional parties that have other core competencies is therefore of the utmost importance in order to fulfill corporate conduct requirements.

The Chad-Cameroon Pipeline project (see Box 3 at the end of Chapter 2) is an example of the facilitating role that NGOs can play. They are, for instance, facilitating consultations with different communities, with the aim of making an inventory of requirements for micro-level development projects or of conducting educational workshops on malaria.

Voice through shares

Sixth, non-governmental organizations can be stakeholders or even shareholders. The latter include several larger and smaller so-called ethical investment groups. These groups decided that, rather than pulling out and putting their investment in a different company or industry, owning shares in a company gave them a leverage to influence corporate behavior. Some organizations actively seek to address company misbehavior; others just put their weight behind initiatives by other groups. The level of organization is often not very high, but these groups are usually very effective in getting larger and smaller investors to support their

efforts. Because of the loose structure of some of these groups, they can incorporate both activists *and* large investment funds that would normally have little to do with each other. This implies that their low level of organization is a prerequisite for their level of success, as much as a reason for it. What distinguishes shareholder pressure groups from other NGOs that deal with business and conflict is that shareholder groups will usually not address the philanthropic aspects of company behavior, but rather its core business and principal values. Their members include long-time investors, large and small, which renders their appeals more credible.

The actions of Kairos against the Canada Pension Plan in an attempt to exert pressure on Talisman (mentioned above) is a case in point. Pension plans are by far the most suited targets for this kind of campaigns, because of their size. A campaign needs only to address a few of these funds to make a large impact.[9]

To summarize this overview of the role of NGOs:

There are a host of roles that civil society can play in influencing corporate behavior, and every aspect in this range has its purpose. Without the critical sounds of activist NGOs, there is less imperative for companies to reflect on their performance and to try to improve their behavior. But showing what is wrong only goes so far: in order to work towards solutions, people need to know the facts and policy options must be defined. Bringing different stakeholders together will add to the process of change, while some groups will prefer to try to change corporate behavior from the inside by putting shareholder resolutions on the table.

From confrontation to collaboration

The private sector and civil society have historically been adversaries, in a relationship based on conflict. Now, however, several observers see a change in this relationship, with NGOs building alliances with the business sector, working together or sometimes assisting corporations (Murphy and Bendell, 1999). The diversity of relationships between businesses and NGOs is enormous and this development by no means implies an end to the antagonistic relationship between the private sector and civil society. "The trends illustrate that many NGOs are moving beyond a culture of criticism to one of engagement with business and other partners in a search for solutions. While at times it may be difficult for NGOs to collaborate, the scale of today's social and environmental problems requires it."[10] This statement, by the Affairs Director of the UN Global Compact, Gavin Power, illustrates both the need for partnerships, as well as the problems attached to these partnerships for NGOs. There is a lot to be gained from partnerships between business and NGOs, but what forms can these partnerships take?

The initial thrust of regulatory initiatives for business behavior is usually taken to have come from environmental NGOs (Murphy and Bendell, 1999). At first, this development was two-sided, with advocacy groups coming up with their own sets of rules to which corporations should adhere in their view, and business developing its own ideas about corporate codes of conduct (Haufler, 2001a).

Attempting to build long-term partnerships between civil society and the private sector encounters several fundamental problems. First, private companies tend to think in terms of short-term projects. Second, the implementation of voluntary codes or regulatory regimes will raise standards: improved performance in conduct by the private sector will force civil society organizations to publicize positive reports, instead of concentrating on the things that go wrong. This has specific consequences for NGOs and will affect the way partnerships with corporations are regarded by activists or NGO members.

Increased cooperation between NGOs and business, along with increased interaction between NGO workers and business people—both formal and informal—provide NGOs with more inside information. A difficult question for many organizations is which information to use and which not to. If a CEO goes 'off the record' during a personal conversation, and the NGO decides to 'go public' with this information, that could seriously damage the relationship between the corporation and the NGO.

NGO accountability and corporate social responsibility

Several reasons make NGO accountability important at the present time. One is the increased influence that advocacy groups have on the international and policy-making level. This increased influence should go hand in hand with increased responsibility and increased accountability. For reasons of credibility, NGOs should adhere to the same principles they expect of corporations. Any misuse of funds, mismanagement or misbehavior is a serious threat to the biggest non-governmental asset: public trust and credibility.

As for NGO accountability, an interesting development is the establishment of the website *www.ngowatch.org* by the American Enterprise Institute and the Federalist Society.[11] This consortium tries to point out that NGOs should first look at their own structuring and *modus operandi* before taking on corporations. The site aims to collect and make available factual data on NGOs, together with relevant analyses, commentaries and statements.

A recent report on NGOs in the 21st century estimates that "the not-for-profit sector is now worth over $1

trillion a year globally."[12] NGOs can no longer be identified with powerless groups, even more so when one considers that this figure does not take into account the fact that a lot of NGOs actually depend on volunteers who are not paid. In many developing countries, the situation on the ground is such that governance is weak or even largely absent in some areas. With their access to outside flows of resources, NGOs have risen to become powerful and important actors in these countries, even to a point where NGOs provide services that government cannot, or will not, provide (Shamsul Haque, 2002).

A prime example of the development towards cooperation between business and civil society is the emergence of 'Corporate Social Responsibility' (CSR) policies, the development of which has been a joint effort by business, NGOs and governments. CSR aims to align business operations with social values. Various business communities seem keen to further develop these practices and adopt a 'triple bottom line' of good social practices, profitability, and sustainable environmental policies. Through this, multinationals present themselves as 'good corporate citizens'. Virtually every large multinational has some sort of reporting device for its social performance, usually an annual report that deals with every aspect of CSR, from human rights to environmental performance, and from development initiatives to sustainability. It is this generality that makes CSR not very helpful when looking at corporate conduct in zones of conflict. Over the past years, CSR seems to have become a gathering point of every 'social' policy or initiative that a company can take. Increasingly, CSR has been associated with human rights and conflict prevention, which nevertheless are specific issues that require specific targeting (Ballentine and Nitzschke, 2004b). When this is not recognized, it can lead to the adoption of all kinds of corporate social initiatives that might not have a lot to do with conflict management or resolution. This stands in the way of effective policymaking.

Since most developing countries realize that they need a strong private sector to generate sustainable economic growth and development, this has become one of the key long-term strategies for conflict prevention. There is a difference between trying to keep business from feeding into the negative dynamics of conflict, and trying to develop its full potential for positive economic and social contributions. The former would mean that core business values need to be made conflict-sensitive. The latter emphasizes the possibilities that companies have of developing policies aimed at reducing or resolving conflict. Ballentine and Nitzschke rightly argue that this approach leads to a virtually endless list of things that a company could undertake to mitigate conflict, which companies in turn reject as 'arbitrary', laborious and too demanding. The authors stress the need for a problem-based, rather than a possibilities-based approach. Such an approach starts with looking at what companies are doing at the moment that is exacerbating conflict, not what they *could* do to mitigate conflict. This has profound implications for the current trend of increasing numbers and varieties of cooperation and partnerships between NGOs and the corporate sector. NGOs need to keep in mind the commercial purpose of corporations. As Haufler (2001b) states: Corporate initiatives will never meet all criteria of activist groups watching the private sector. The weak implementation systems and lack of control will ensure that many initiatives will be perceived as failures. This in turn will lead civil society organizations to quit the partnership and point towards business violations of the initiatives. Haufler here was talking about voluntary initiatives, but regulatory initiatives will also put a strain on NGO-private sector partnerships. Since corporations are usually reluctant to accept a higher degree of regulation, it will be civil society that pushes for more binding rules.

Here, there is a real danger of parties getting tired of the dialogue. If this is the case, how many NGOs will then continue to take part in the discussion? The voluntary-regulatory discussion has been largely dealt with in Chapter 2. It suffices to say that if NGOs come to perceive the positions of business partners within this discussion as entrenched and impossible to change, they will eventually either attempt to get out of the discussion or will simply get out of it. Besides, the danger of perceived or actual co-optation exists. It is therefore necessary, within the ever-broadening discussion of CSR, to keep specific targets in mind and continue to point out the exact and real issues. This is not only to keep momentum; it will also lessen the danger of parties getting tired of the dialogue.

The NGO debate about 'business and conflict'

Not many NGOs have taken up 'business and conflict' as a stand-alone issue. Usually, a connection is made to more general problems such as human rights or corporate social responsibility. A lot of room within the CSR debate has been taken up by the discussion between supporting and opposing parties of regulatory and of voluntary frameworks.

Some NGOs try to incorporate issues of 'business and conflict' into their campaigns. One example is the Business Group of Amnesty International UK which was set up by a small group with experience in business, law and ethical investment. It encourages companies to use their influence in support of human rights, to be aware of the human rights aspects of their operations, and to avoid complicity in human rights violations.[13] Initiatives include the map series *Geography of Corporate Risk*[14] in 2002, showing where in the world companies are most vulnerable to costs and damage of reputation associated with human rights violations and a human-rights checklist for companies by Amnesty International.[15]

An example of an NGO that tries to go beyond the general debate and focuses on corporate roles in conflict is the above mentioned International Alert (IA), through its program on Business

Children in a small rural community in the Niger Delta, Nigeria.

and Conflict. IA has pioneered practical guidance to companies in conflict-related issues, building on analytical research and practical engagement in the field. However,IA does not only provide recommendations to companies but also to relevant bodies that could foster a positive role for the private sector in peacebuilding and conflict prevention, such as governments and multilateral organizations.[16]

The relevance of PWYP is not hard to explain. While set up as an innovative transparency initiative, the link between greater accountability through transparency and preventing violent conflict in resource-dependent poor countries is clear. The same goes for many smaller initiatives and organizations. The issue of business and conflict is one of several issues that they are concerned with, and is often not addressed directly. The Mineral Policy Institute, for example, has a project on human rights, but not on conflict *per se.* It does get involved in conflict prevention and resolution efforts, for instance by calling for renegotiation of the Contract of Work (CoW) for the PT Freeport Indonesia mining activities in Papua New Guinea.[17] The current CoW was drafted without prior consultation of the local Papuans and mining activities lead to human rights abuses and environmental degradation (see Box 1 on pp. 21–23).

What sets the issue of 'business and conflict' apart from other issues, in terms of NGO-MNE relations, is the fact that, contrary to other fields, antagonism on this issue is unnecessary. Peaceful operations are both ethically and commercially desirable. Therefore, one would expect greater cooperation between NGOs and MNE on conflict. If this is not the case, the main question should be: What dissuades/persuades companies from partnering with civil society on conflict? And what would make civil society pursue/accept such offers for cooperation? The answer relates to how well the relevance of the conflict issue can be framed for each side, and whether their other 'peace-time' interests can be disentangled from the conflict issue.

Even outside of the 'business and conflict' issue, many civil society organizations have come to the conclusion that more can be achieved by working with companies—and their shareholders—than by working against them. And this goes beyond the company just being a source of funding. Whereas philanthropy by a company is (generally) positive, trying to get at a company's core business principles will ultimately lead to more results. An example of an NGO trying to change business behavior by aiming at what it regards as core responsibilities of business is the UK-based Ecumenical Council for Corporate Responsibility (ECCR). This faith-based organization (not an NGO, because of legal issues) seeks to promote corporate responsibility in large companies. Its underlying principles are two-fold. First, it is their view that faith communities should offer their support to, and get involved in, calls for companies to adopt ethical and environmental guidelines. Second, ECCR wants faith communities to invest their financial resources in a socially responsible way.[18] It concentrates on multinational companies based in the United Kingdom and makes use of local action groups. In fact, it is more of a network than an organization; the local groups have a large degree of independence and can decide themselves on which issues to take up. ECCR, together with its Canadian and American counterparts has developed the so-called 'Principles for Global Corporate Responsibility; Bench Marks for Measuring Business Performance'. The 'Bench Marks' consist of a set of clear, understandable standards and obligations that a responsible company should adhere to. The bench mark tool is not meant as a code for business, but as a tool to evaluate a company's performance.[19]

The problem for companies may well be that if they link up closely with the NGOs on conflict, they cannot restrict their involvement with them to that issue alone and may be opening up—in their perception—a Pandora's box of activist involvement. If the NGO is credible enough to work with on conflict, then the company will have a hard time discrediting some of their other work on issues of environmentalism and human rights.

On the other side of the divide, the NGO may also be unwilling to liaise too closely with the MNE for fear of its broader implications. Admitting any alignment with the cooperation on conflict may alienate its most antagonist members (that is, its donors), whose perspectives on conflict may well be clouded by activism in other areas, such as environmental protection and human

rights. If few NGOs appear to deal exclusively with the issue of 'business and conflict', it may be because an NGO whose interests are too closely aligned with those of the corporation may well cease to be an NGO and become something closer to a consultancy organization. The question of who in the company deals with NGO relations is also important. If this is only left up to the PR-department, NGOs will realize that talking can only get so far. If there are no decision-makers involved in relationships with NGOs, the latter will be forced to step out of the process because they might feel that it is not getting them anywhere.

On the other hand, in business magazines, at conferences, and in other media, a lot of attention is usually given to attempts to try to establish 'the business case' for corporate responsibility, and sustainable, transparent and accountable ways of conducting business. Incentives for business are manifold. In managing conflict and environmental risk, for example, they may improve access to information and resources, build goodwill, attain organizational innovation, improve operational efficiency and enhance reputation and credibility.[20] The World Economic Forum (WEF) undertook a survey of forty companies concerning the reasons for companies engaging in multi-stakeholder partnerships with NGOs and other organizations. The report summarizes the following reasons (in order of importance): First, a reason for engaging in partnerships is to adhere to companies' own values and policies. Second, protection of corporate brand and reputation is important. Of course this second reason is particularly vital for companies who have high value consumer brands, but it can also have a large impact on companies whose products are easily linked to issues of corruption, human rights, labor standards, security, etc. Third, a secure and stable operating environment is beneficial to any company. Fourth, demands made by investors can push companies to engage in partnerships. As mentioned above, these investors may not only be groups actively seeking such leverage but also banks and insurance companies who are increasingly demanding policies addressing social and environmental risks. Fifth, the wish to enter 'untapped or undeveloped markets' can necessitate the formation of new partnerships with civil society and other actors. A sixth reason lies in the need to respect the host government's regulations and wishes. The seventh reason given in the WEF report is that partnerships can be of importance in identifying and managing risks that occur in unstable or underdeveloped operating environments.[21]

The WEF report does not deal exclusively with business-NGO partnerships but provides important insights with regard to these. Specifically looking at the role of business in conflict, all reasons fit remarkably well, though the level of importance probably varies. Before investing in a volatile area, many companies take the management of risks as a starting point, making that reason rather more important than the others mentioned above. At the end of the day, what *is* important is that partnerships are based on critical but healthy and open relationships and that measures are in place to prevent co-optation of the 'partnering' party by business.

Where do we go from here?

Not many NGOs work on 'business and conflict' *specifically,* unless they focus on certain cases, a point which has been made adequately above. Hence, substantive work in research and advocacy is needed. Excellent examples are International Alert's business program and the Business Group of Amnesty International UK who engage corporations directly and aim to provide practical guidance. The issue of 'business and conflict' would have much to gain if certain NGOs would focus exclusively on it, to the exclusion of non-conflict issues.

As for the debate on business-NGO partnerships, it is very much alive and ongoing. Although critics exist on both sides, the overall perception seems to be a positive one. An important note would be that the debate on the role of business in conflict should not be subsumed to the plethora of CSR conferences, papers, magazines, reports and books. While the two have a lot to do with each other, they are essentially not the same: fighting for human rights, environmental sustainability, and anti-corruption policies all make a positive role for business in its operating environment more likely, but it does not automatically lead to this.

Critics affiliated with the business side argue that NGOs have far more to gain from partnerships with corporations than *vice versa*. NGOs, in their view, bring no technical expertise and possess no knowledge of markets, nor do they know what is good for business. In the worst case, NGOs are free-riding and behave as rent-seekers.

NGO workers, on the other hand, complain about the lack of corporate commitment and warn of the dangers that cooperating with business can pose to the neutrality and even existence of an advocacy organization.

The above criticism shows that not all is perfect, and that not everybody is applauding the trend towards partnering between corporations and non-profit organizations, though one could easily get that idea from looking at recent publications by magazines like 'Ethical Corporation'. The old antagonism between activists and corporations is still around and, because partnerships are a fairly recent phenomenon, it might just be too early to tell if partnerships are here to stay, or whether activism and negative engagement will once more regain the upper hand. However, where the incentives and interests of MNEs and NGOs run parallel—as can be the case in the debate on 'business in conflict'—they are not helped by renewed (or continued) antagonism.

Box 5: Shell in the Niger Delta—Fuelling conflict?

Oil is the mainstay of the Nigerian economy. After the Nigerian National Petroleum Company (NNPC), Shell is the largest actor in the Nigerian oil industry. Oil company policies—and in the first decades of their operations especially their lack of policies—have had detrimental ecological effects, as well as grave social impacts. Shell's (and other MNE's) activities have, unintentionally, been feeding into the overall conflict environment in the oil-rich Niger Delta for many years. The needed changes in policy and conduct have been slow to arrive, and it is unclear whether there is in fact any way to right the wrongs done. But at least (and at last), Shell has accepted that company operations are part of conflict dynamics and that corporate policies can feed into conflict—and this is a step forward. How to deal with it, however, remains open. The challenge to the company is threefold: First, it has to look for ways to deal with current violence; second, a strategy is needed to promote peaceful transformation of conflict in the future; and third, adequate, relevant and suited compensatory efforts to address grievances caused in the past have to be pursued.

The Niger Delta is the world's third largest wetland, and has some 20 million inhabitants, 23 percent of Nigeria's total population. It is not only immensely diverse in terms of its ecology; its population also comprises about 40 different ethnic groups speaking 250 languages and dialects. Besides people, the area is the source of virtually all of Nigeria's onshore crude oil reserves.

Shell d'Arcy, the forerunner of the Shell Petroleum Development Company (SPDC), secured itself the exclusive exploratory rights to the whole of Nigeria in 1947. After the discovery of oil in 1956 near Oilobiri in the Niger Delta, it took the company two years to build the necessary infrastructure to begin commercial exploitation of crude oil. In 1958, Nigerian crude reached the European markets for the first time. Immediately after Nigeria's independence in 1960, Shell's monopoly was ended and other companies began prospecting for oil in the area. However, Shell's head start, in addition to the partnerships it set up with the Federal Government, secured the prominent role of the company. Today, Shell is still the largest producer in the Niger Delta, its production amounted to an average of 910,000 barrels of oil per day (a barrel is the equivalent of 159 liters) in 2003. In the same year, total Nigerian production was between 2 and 2.2 million barrels per day, making it the fifth largest producer in the world and the largest in Africa.

The Delta communities did not profit from the oil wealth, or at least they did not profit to the extent they had expected and would have perceived as being 'just'. They felt neglected from a development point of view, and at the same time they had to bear the environmentally and socially negative effects of oil production. Because government is largely absent in parts of the South of Nigeria and because oil companies do have representatives on the ground, it was a logic step for locals to take their demands to the companies, even more so because multinationals always operate in a joint venture with the national oil company, NNPC.

Public awareness of the negative role of oil companies in Nigeria began in the early 1990s with the campaigns of the minority Ogoni people, under the charismatic leadership of Ken Saro-Wiwa. The latter managed to put the Ogoni struggle against oil pollution and overall neglect by both the government and 'Big Oil' on the forefront of the international activist agenda. In 1995, the lingering crisis in Ogoniland came to a high when Saro-Wiwa and eight other Ogoni leaders, who had been campaigning against oil companies and the government, was executed after having been tried by a civil disturbances tribunal. Protests were staged in many parts of the world and many accused Shell of complicity in the killing of the Ogoni nine. Shell was blamed for not using its influence with the Nigerian military regime in order to prevent their deaths. The company itself hid behind the phrase that 'it could not mingle in the internal affairs of the Nigerian state' and was therefore not to blame. But the latter remains to be seen. In 2002, a US district court ruled that a lawsuit against Shell, for involvement in the 1995 human rights abuses, could go ahead. The company is being sued under the Alien Tort Claims Act, by the families of the nine Ogonis that were executed.

The accusations of complicity in the Ogoni crisis, together with a massive campaign against Shell because of its plans to sink the redundant oil storage buoy 'Brent Spar' into the Atlantic Ocean, led to the company including respect for human rights in its Business Principles. It states that one of its responsibilities to society is "to express support for fundamental human rights in line with the legitimate role of business."

However, even after the Ogoni tragedy, protests against Shell and other oil companies, violent or non-violent, continued to be staged throughout the Niger Delta. In 1990, one of these protests took a very nasty turn. In Umuechem, villagers demanded that Shell would reconstruct the main road, which was washed away during the rainy season. They occupied a nearby flow station and demanded to speak to representatives of the company. Fearing for their safety, representatives Shell refused to meet them and instead called on the authorities to send in the Mobile Police (MoPo). A Shell official specifically asked for these feared security forces, whose indiscriminate actions had earned them the nickname 'Kill and Go'. The operation by MoPo resulted in 495 houses being destroyed and the killing of 80 people. Shell, rightly or not, laid full blame with MoPo and did not accept any responsibility for the Umuechem massacre. Should it have known that involvement of MoPo would be all but peaceful?

Oil-related violence persists until today. Fighting between Ijaw and Itsekiri militias in Warri in 1999 and 2003 and the recent violence in and around Port Harcourt are prominent examples. In 2003, violence caused the death of between 600 and 1000 persons in the Delta. In this difficult area, Shell has often valued the security of its own personnel over the protection of human rights in general.

On the other hand, Shell has a long history of addressing community demands in its areas of operation. In fact, an often-cited aspect of Shell's presence in the Delta is 'Community Development' work, which usually boils down to the company signing a Memorandum of Understanding (MoU) with a host community. As part of the MoU, the community promises to grant access to oil wells near their village and not to cause disturbances. In turn, the company will assist the community, usually by providing infrastructure such as a road, water supply or a health post. For this, it has set up Shell Community Development (SCD).

The first of these community development efforts were undertaken in the 1980s and the first project by Shell dated 1992. However, Community Development has been largely unsuccessful and the stories about failed, abandoned and obsolete projects are many. Companies have falsely (or at least, controversially) reported some activities as community development; an example would be the building of roads to their own facilities, roads that were of no use to the villagers. On the other hand, development efforts have often been undertaken on the basis of *demands* from a community, rather than an *assessment of the needs* of this community. This has led to some curious decisions regarding priorities.

In August 2003, SCD came with a set of 'big rules', to correct some serious flaws in its operations. The practice of hiring 'ghost workers' (paying for workers who are not supposed to actually show up for work) and paying youths for 'standby labor' (giving them a sum of money in order to prevent them from causing trouble) is no longer allowed. Even more importantly, the new SCD policy states that contractors working for SPDC must also comply with its rules. This can improve the behavior of contractors, a grave problem in the past because SPDC supposedly had no say in how these subcontractors conducted business.

Besides the negative impact of actions taken by the oil company, some structural problems exist with regard to the company's internal functioning. Information sharing between headquarters in London and local offices in the Delta does not always seem to work properly, which is largely related to the company's decentralized structure and the lack of long-term commitment as a result of the rotation system used for management positions. Country Managing Directors have a great deal of independence in dealing with governments on the spot. But the experience of a Managing Director gets lost when he is replaced by another person every three years.

Despite the vast oil wealth of the Niger Delta, its societies can be described as resource-scarce. (The promise of) a large amount of money can disrupt social structures within a community and lead to friction or violence. Compensation payments, therefore, turn out to be negative 'cash assaults' rather than positive rewards. At the same time, by neglecting protests but reacting to violence, Shell has created an environment in which violence is more or less 'rewarded'.

Endnotes

[1] To date, no solution has been found for the 'Ogoni issue' that is acceptable to all sides. Oil installations in Ogoniland are not in use, no oil is being extracted from the area at present (though the pipelines crossing the Ogoni lands are still in use). In other words, the Ogoni crisis has died down but has not been solved.

[2] See for instance: www.essentialactions.org/shell

[3] www.american.edu/TED/ice/ogonioil.htm.

[4] "Terms of Reference," Kimberley Process Working Group on Monitoring, 31 October 2003.

[5] "Business/NGO partnerships—What's the Payback?" Ethical Corporation, April 2004.

[6] Author's interview, September 2004.

[7] www.jatam.org/english/case/fi .

[8] "Business/NGO partnerships—What's the Payback?" Ethical Corporation, April 2004.

[9] Meredith Alexander, "Leveraging Big Business," People and Planet (Lobbying document, no date): www.peopleandplanet.org/fair-share/campaigns_manager/Leveraging_BB.PDF.

[10] Press release by SustainAbility, 26 June 2003.

[11] www.ngowatch.org

[12] "21st Century NGO: Playing the Game or Selling Out?" SustainAbility, Executive summary, 26 June 2003.

[13] A full mission statement can be found at www.amnesty.org.uk/business/group/index.shtml.

[14] Together with the Prince of Wales International Business Leaders Forum.

[15] The Human Rights Responsibilities of Companies, Amnesty International, 2003.

[16] International Alert Business program Mission Statement, at www.international-alert.org/policy/business/pnr.htm.

[17] www.mpi.org.au/campaigns/rights/renegotiation_contract_of_work.

[18] ECCR web site, www.eccr.org.uk .

[19] Author's interview with Barbara Hayes (ECCR) .

[20] See: Overview of Corporate Social Responsibility Business for Social Responsibility, issue brief (2002), via www.bsr.org.

[21] World Economic Forum, Partnering for Success: Business Perspectives on Multistakeholder Partnerships (January 2005) at www.weforum.org/pdf/ppp.pdf.

Conclusions

As the previous chapters have shown, the issue of 'business in conflict' has to be addressed on various different levels of analysis and in different contexts. It is a topic that must be dealt with on the level of single private companies—or even one single project of a company—as well as with regard to the international system as a whole. Everyone—from the local security guard at a mining operation to the CEO at company headquarters, from local tribal leaders to diplomats in international organizations—is involved, and solutions will depend on what all these actors contribute. A mining operation in a remote area of an African state is of as much relevance as the discussions at the UN Global Compact unit in New York. In our globalized world, links can be traced between a UN office in New York and a mining operation in a peripheral African region. In other words, far-away places no longer exist. Whatever happens in an African mining area can easily come to the limelight of the international public and international political considerations; and what happens in the international arena has repercussions on actors and their relations in the most remote parts of our globe. Globalization and global governance in its various forms and formats has led to the internationalization—or, to be more precise: transnationalization—of issues that were formerly regarded as national or even local affairs. This has shifted private business into a new political context, both as an object of political and public scrutiny and as a political actor in its own right. Willingly or unwillingly, private business plays a role in the transnationalized political arena, from the local to the global; it is subjected to political interests and considerations, again from the local to the global. Private business has hence inevitably been placed in the real world of violent conflict and endeavors towards conflict prevention and peacebuilding on the one hand and in the world of discourse on violent conflict, conflict prevention and peacebuilding on the other. It cannot avoid either. A retreat to an apolitical stance is not possible any more. The argument: "We are only doing business, politics is not our business" cannot be upheld, because it is just not convincing in today's world." It is no longer simply enough to make a profit, pay taxes, employ people and obey laws; businesses are now expected by a growing number of consumers, investors, employees, governments and citizens to act responsibly, be accountable and to contribute to broader societal goals as well—and to contribute to these broader goals not only through philantrophy and community projects, but mainly through the way companies undertake their core business activities and help to shape national and international frameworks, institutions and values" (Nelson, 2002, p. 3).

Therefore state authorities, international organizations, civil society NGOs and social movements also hold private business accountable with regard to its contribution to the causes and the conduct of violent conflict, and they remind private business of its responsibility towards conflict prevention and peacebuilding—and rightly so. On the other hand, private business is a powerful actor on the stage of politics, from the local to the global level. Because of its might, it can heavily influence the framework and the course of policy, but it is not in sole control. However, the other actors do count, too. And conflict prevention and peacebuilding is served best if and when all the actors follow a common script and perform in concert. Private business is obviously not the main actor in the drama of conflict prevention, conflict management and peacebuilding, but it has nevertheless a role to play.[1]

The role of business in conflict and conflict prevention

Let us look at the various levels on which business plays its role and the various settings in which it has to perform, taking into account what has been said about its twofold position as an actor and as an object of the activities of others.

On the local level, the impact of business can be felt most intensely. At the same time, this seems to be the level on which it is particularly difficult to influence corporate behavior. However it is relatively easy to define general principles for conflict-sensitive behavior at this level. The three basic principles elaborated by International Alert, for instance, provide general guidance. International Alert's Report "Trans-national Corporations in Conflict Prone Zones: Public Policy Responses and a Framework for Action" (2003) demands—firstly—compliance with relevant legal frameworks; secondly, adopting a 'do no harm' approach that seeks to minimize harmful impacts and, thirdly, a pro-active conflict prevention and peacebuilding approach that seeks to maximize positive potential and to address conflict factors (see Trans-national Corporations Executive Summary, Figure 1 'Strategies for Managing Corporate-conflict Dynamics').[2]

Compliance with the law is a self-evident demand. However, even this basic principle is only too often ignored by private business companies, especially in circumstances where law enforcement institutions are weak or have collapsed entirely. The behavior of private business in some West African crisis regions or in the Democratic Republic of the Congo (DRC) is a case in point.[3]

When it comes to 'do no harm' things get more complicated. 'Do no harm' means that "companies can take a systematic approach to ensuring that their own operations do not create or exacerbate conflict" (Nelson, 2002, p. 211ff.), and—if harmful side-effects cannot be avoided—acceptance of social responsibility is required. That "first and foremost means taking responsibility for the harm caused by the company itself, both directly and indirectly" (NHO/PRIO, 2003, p. 13).

Even if companies are willing to adhere to the 'do no harm' principle, it is often difficult to turn this thought into practice. It needs a thorough analysis of the situation on the ground, a mapping of state and societal actors and their interests and relationships in order to know what kind of actions might do harm and how to avoid this. Such a mapping means going beyond traditional social and environmental impact analysis and conflict risk assessment which confines itself to 'risk to business' and only addresses the economic opportunities and security concerns of the company, e.g. the security of employees, installations and infrastructure or access routes to markets. Instead one has to take the overall situation into account and address 'risk to community'—which the company should view itself as an integral part of.

Responsible hiring policies, for instance, can only be conducted on the basis of such a mapping. Compensation payments or community projects are other cases in point. In order to avoid doing harm, community relation projects have to be developed not *for* the community, but *together with* the community (ownership)[4]; and compensation regulations have to be aware of the often complex societal networks on the ground. Even well-intentioned activities in these areas might have negative societal effects and thus contribute to escalating conflicts. Often companies find themselves in a societal and political environment where almost every single action they take might backfire. A special problem is posed by the security measures companies in fragile political environments take. They feel themselves obliged to protect their assets and staff, and at the same time protection measures can cause additional insecurity. Instruments like the Voluntary Principles give some guidance on how to avoid such problems, but again the difficult task is to make those principles work on the ground.

Finally, when it comes to the principle of a pro-active 'peacebuilding approach' things get even more difficult. Whereas the first two principles can be seen as being obligatory (the first even mandatory), the third principle has much more of a voluntary touch to it. However, several promising approaches could be taken: a MNE can engage in policy dialogue, advocacy and civic capacity-building with central host governments, local governments, civil society groups and other institutions on both the local and national level. Through partnerships with NGOs and SMEs, the company can support efforts to tackle conflict-relevant issues such as corruption and cronyism, human rights abuses, patronage, lack of democratic participation, inequitable or inadequate access to economic opportunities and education and health services, lack of local business development, and job creation. In this context it is important not only to engage with the central government and its bureaucracy (which are often far away in the capital and are perceived as 'strangers' by the local population) but also with local government, civil society groups, traditional authorities and community-based organizations. In short: one has to pursue a multi-stakeholder approach.[5] Dialogue between stakeholders is a key component of conflict prevention and peacebuilding. Open communication with communities and transparency is a must. Barriers between company staff and local communities have to be overcome. The engagement with local communities has to follow a pro-active long-term approach, in contrast to a short-term approach which only reacts to crisis situations in order to avoid major trouble. The most straightforward way for businesses to try to influence their operating environment for the best is to aim at sustainable positive social impacts.

In the context of the 'peacebuilding approach' principle, local civil society groups as well as international advocacy NGOs must not be perceived as a nuisance or a threat, but as partners in dialogue. This is often hard for private business to accept, because it can lead to costly and time-consuming encounters. However, to "take time" is maybe one of the most important recommendations that can be made. "It may be better to proceed slowly—and reduce the risk of conflict—than to press ahead rapidly and risk losing the project" (Bray, 2003, p. 334). And what might look cheap at first glance can prove very costly in the long term. Indeed, conflict-sensitive behavior can cause costs in the short term, and the advantages of conflict prevention are difficult to value in terms of money, whereas the costs of conflict prevention and peacebuilding are obvious. But experience shows on the one hand that in the long run ethical behavior will lead to long-term profitability (NHO/PRIO, 2003, p. 15). And, on the other hand, experience also shows that ignoring conflict-prevention issues may generate considerable costs in the long term—not only at the local level, where disgruntled local actors might turn against the company (even violently) but also at the international level. As far away places no longer exist, information about a given company's behavior easily spreads beyond the local context and this heavily impacts on a company's license to operate. Hence "establishing a positive legacy is increasingly critical to obtain future contracts" (CEP, Executive Summary, 2002b). For instance, host governments more and more assess the previous environmental, social and conflict-sensitive record of MNEs elsewhere before engaging with them. It gets increasingly difficult to operate without a respective 'social license'. Thus doing business in a conflict-sensitive manner enhances a company's reputation and license to operate.

The role of international organizations, NGOs, and states

The issues of reputation and 'license to operate' again amply show the interconnectedness of the local and the global level. Only because of this interconnectedness is there a chance to influence corporate behavior at the local level even in the most remote of regions. This is made possible by transnational civil society networks that fulfil a watchdog function, hold companies accountable, put pressure on them and lobby at both companies' headquarters and in the international realm. Even if they only too often cannot get all their demands fulfilled, their mere existence and their well-organized—and even better publicized—activities have, on the one hand, considerably contributed to changes in the behavior of companies at the local level in many instances and, on the other, to the momentum of the debate about conflict-sensitive business at the global level. This holds even more true since civil society actors have developed a highly sophisticated and differentiated approach to engage companies: from mere confrontation in the early days to a combination of confronting and cooperative elements today, playing a variety of roles: opponent, watchdog, facilitator, consultant, etc. (see Chapter 4). Without them the 'business in conflict' debate would not have got off the ground and would not have gained the momentum that can be observed today. Of course, in the realm of international conferences, UN-sponsored dialogue fora, high-level international committees etc., a lot of words are spoken and papers written that do not have an immediate impact on the concrete behavior of corporations on the ground. That is the reason why NGOs and civil society actors often complain about the 'white-wash', 'green-wash' or 'blue-wash' character of those exercises and feel frustrated because their far-reaching proposals with regard to monitoring and implementation of binding regulations and establishment of enforcement mechanism are turned down again and again. However, the fact that these fora, committees, conferences etc. are in place at all can be seen as a positive development in itself, as they put enhanced moral pressure on private business to behave in a conflict-sensitive way. In other words, there is an impact, even without binding regulatory frameworks.

As far as voluntary codes of conduct, guidelines, declarations and principles are concerned progress can be observed. To give just a few examples: the UN Norms go further than the Global Compact; in contrast to a merely voluntary code, the OECD Guidelines provide for a complaints mechanism; the civil society PWYP campaign has induced the EITI which is taking important states and the MNEs on board. Hence it is not all empty talk, and even if the direct pressure that can be put on companies is in most cases still very modest, all these initiatives contribute to a climate in which companies are pressured indirectly into a more conflict-sensitive behavior. And there are avenues for further progress, if one transcends the sterile debate on 'voluntary versus binding' approaches and takes course in the direction of 'co-regulation' as is proposed in this *brief* (see Chapter 2). "The voluntary-mandatory dichotomy risks obscuring the full range of regulatory mechanisms that fall between pure voluntarism and hard law" (Ballentine and Nitzschke, 2004b, p. 55). There do exist "hybrid forms of regulation" (Ballentine and Nitzschke, 2004b, p. 56), e.g. the Kimberley Process and the Financial Action Task Force on Money Laundering (FATF). The Kimberley Process and FATF can be seen as first examples of 'co-regulation' that can not only be elaborated further but could be transferred to other subjects.

All these endeavors demonstrate that the 'business in conflict' issue has to be dealt with within the framework of a multi-stakeholder approach. State authorities, international organizations, NGOs and businesses have to come together in a—if need be: confrontative—partnership to solve the problems. Private business has to accept the interference of the other stakeholders, but on the other hand this also provides private business with guidance and assistance. Private business enterprises cannot and should not act alone when confronted with preventing or resolving violent conflict, but must work in concert with one another and international actors such as the UN and the World Bank as well as state authorities and civil society.

UN agencies are especially suited to using their convening power to bring the various stakeholders from civil society, private business and governments together in a meaningful discourse. The issue of 'business in conflict' should become even more prominent on the UN agenda, and the UN should do even more with regard to raising awareness of the private business sector's capacities for contributing to conflict prevention and peacebuilding. The respective GC activities are steps in the right direction. Additionally, a specialized entity within the UN system could be identified (or created) that is specifically responsible for 'business in conflict'.[6] It could become the institution that initiates and co-ordinates co-regulation endeavors. Within this framework, for instance, a debate on commodity certification and a regulatory framework to address trade in 'conflict commodities' could be facilitated, and the establishment of independent grievance and complaints mechanisms for people affected by non-conflict-sensitive business behavior promoted.

So far we have talked in this concluding chapter about the local and the international level. However, the national level and the state of course cannot be left out of the picture. Governments of host countries are in the first place responsible for conflict prevention, law and order, and provision of a

framework for non-violent management of conflicts within the state. If these prerequisites are in place, the problem of 'business in conflict' will hardly emerge at all. However, in many regions of the world state structures are weak or even failing, and 'the state' and its government becomes part of the problem instead of being the solution. Under such conditions private business finds itself only too often trapped between incompetent, illegitimate, and unaccountable governments and their oppressive security forces on the one side and disgruntled (armed) opposition groups on the other side. To pursue conflict-sensitive business in such a situation is a great challenge (and as this burden often cannot be shouldered responsibly, one recommendation to business is: to leave) as the whole political and societal context has to be improved: issues at stake are the stabilization of statehood and the restoration of the monopoly over the legitimate use of force in a democratically legitimized and judicially controlled manner. In short: good governance has to be established or re-established. Naturally, private business can only make relatively small contributions to this endeavor, mainly along the lines of the measures described above with regard to the 'peacebuilding approach' principle. However, all changes start small, so such contributions can begin to make a difference. Transparency of payments to governments is a case in point, hence the importance of PWYP and the EITI in the 'business in conflict' context. However, the fundamental problem persists that business projects can get off the ground much faster than good governance can. This so-called two-speed problem—for which the Chad-Cameroon Pipeline Project is a striking example—can only be tackled by reducing the speed of 'business'.

Responsibility rests not only with governments in the conflict areas of the South, but also with governments and state authorities in the North where most of the MNEs that are embroiled in 'business and conflict' have their headquarters. Governments can exert influence in their own country as well as—via foreign and development policy—in the conflict-prone or conflict-affected states in the South.

If the political will exists, governments can put pressure on companies at home and policy levers can be both positive and negative. As a prerequisite, of course, government agencies have to become more sensitive—and act more sensitively—with regard to 'business and conflict'. This means that trade departments, investment promotion institutions, aid agencies, export credit agencies and others should take into account the 'business in conflict' issue when reviewing which business projects to support. Thus they could use their leverage to change the incentives for the private sector. The conflict-sensitivity of state-backed investment has to be ensured. Clear criteria and norms must be developed for this purpose so that transparent indicators are at hand when decisions on certain project proposals have to be taken. Any kind of assistance on the part of the state to businesses in zones of serious crisis and conflict should be made dependent on such clear and transparent criteria. Governments could thus use the allocation of export credit guarantees and the allocation of contracts to provide incentives to companies to adhere to conflict-sensitive business practices. "Public sector agencies can also create strong financial incentives by incorporating conflict-relevant criteria in decision-making on access to export credits or public procurement" (Switzer and Ward, 2004, p. xviii). Export credit agencies should adopt conflict impact assessment tools and should require conflict impact assessments from companies. 'Good performers' should be rewarded, e.g. by preferred access to procurement contracts and insurance and lower premiums while 'bad performers' should find it more difficult to secure financing and could be threatened by black-listing for example. Moreover, the legal framework in the countries of the North has to prevent corporate behavior that might ignite conflict elsewhere, that is: "Clear and enforceable regulation is necessary not only to provide legitimate companies with a secure business environment, but also to hinder 'rogue companies' from exploiting fragile ... situations for pecuniary benefit" (International Peace Academy, 2003, p. 18). Governments must be committed to enforcing legislation against MNEs which have their headquarters in their respective countries. It is essential that affected communities from host countries attain the right and the ability to take legal action against corporations in home countries. Directors and managers of MNE have to be made personally liable for the activities of their companies. As a prerequisite, policies and legislation have to be developed that prohibit certain practices, based on clear norms and definitions.

Another responsibility of donor states is to develop special incentive patterns for private investment in post-conflict settings in order to promote investment that fosters job creation and economic kick-offs, e.g. via special insurance patterns. Then private business could considerably contribute to the 'reintegration' dimension of DDR for instance. At the same time, one has to impede rogue companies from undermining fragile peace.

When it comes to foreign and development policy, governments in the North also have several options for action in relation to 'business in conflict'. They can provide assistance in capacity- and institution-building for governmental agencies in recipient states which (can) have an impact on conflict-sensitive business practices. "This includes capacity building for public administrations, particularly in the areas of financial oversight, budgeting, accounting, and public expenditure review ... technical assistance and capacity building for border monitoring

and customs control" (International Peace Academy, 2003, p. 19). Assistance in the restoration (or creation) of responsible resource management is a particular case in point. One has to provide "targeted technical and financial assistance in support of transparent and equitable resource-revenue management" (Ballentine, 2004, p. 14).

Assistance should not be confined to governmental agencies only. Of importance is also assistance for civil society groups. They can take over watchdog functions, help local communities in their relations with enterprises and state authorities, collect information on illegal resource exploitation and mobilize public awareness (cf. FriEnt, 2004, p. 9–10; International Peace Academy, 2003, p. 18).

Last but not least, assistance in capacity-building for the private business sector in developing countries is important, too. Chambers of commerce and associations of SMEs need attention in particular. The local business communities, which are part of wider supply and commodity chains and which are severely affected by violent conflict, have to be taken into account as important members of peace (-building) constituencies.

Achievements and shortcomings of the debate on 'business in conflict'

Summarizing the debate on 'business in conflict' as it has developed in the epistemic community of academic scholars, representatives of international organizations and NGOs, business representatives and governmental agencies, and assessing the approaches proposed to handle the problems, the following observations are worthwhile keeping in mind.

1. The concrete behavior of private businesses in conflict-prone regions requires monitoring

Debates and approaches focus very much on the sphere of international transactions that private businesses are involved in. Trade in conflict commodities and financial flows are of major concern. There are very good reasons for that, as these issues are of the utmost importance when it comes to sustaining and prolonging violent conflicts. Several approaches to tackle this dimension of the 'business in conflict' issue figure very prominently in the international public and political debate, e.g. the Kimberley Process or EITI. However, the concrete behavior of private businesses on the ground in conflict(-prone) regions seems to draw much less attention—apart from NGOs with a regional specialization. But it is here that private business operations often contribute to the causes of violent conflict. Here the problem is not only about prolonging an already existing conflict (by financing it), but about actually causing conflict. This aspect definitely needs more attention, well beyond the issue of problematic security provisions. Hiring practices, compensation payments, community relations, environmental footprints are examples of such issues. Independent monitoring and verification of corporate behavior on the ground that is long-term, large-scale, field-based, internationally recognized, and conducted by an authoritative body comprising all the relevant stakeholders is lacking, but could considerably contribute to conflict prevention.[7]

2. The way in which private businesses in conflict-prone regions are financed should be addressed

Another dimension that obviously needs more attention is the financing of private business projects in conflict(-prone) regions. There is a need "to address the role of finance—and specifically the financial services sector—in providing financial resources to projects or companies engaged in conflict-prone regions. … Project finance, banking, insurance and asset management operations can be implicated in conflict scenarios" (Switzer and Ward, 2004, p. xvi). Mining projects for instance "require large amounts of capital and long lead times and, as a consequence, financial institutions have enormous influence. In recent years, the mining industry has had difficulty in attracting finance, in part due to the rapid growth of environmental and social screening of both private and public investment funds" (Evans, Russell and Sullivan, 2002, p. 220). The capacity to cause "difficulty in attracting finance" should be used as leverage to induce conflict-sensitive business behavior.

3. The advantages of co-regulation

Voluntary codes of conduct alone are obviously not sufficient in coping with the problem of 'business in conflict'. Criticism of those codes is widespread. The main points have only recently been briefly summarized by David Weissbrodt: "Whether unique to the company, or adopted sector-wide, voluntary codes too often lack international legitimacy and result in an uneven playing field of business competition. They work best for the well-intentioned, but the overwhelming majority of companies have no human rights policy and few have made explicit commitments. Most company codes of conduct do not even mention human rights" or obligations with regard to conflict-sensitive behavior. "While voluntary commitments are welcome, they are not enough" as they lack any mechanisms for assuring continuity or implementation and independent monitoring is not guaranteed (Weissbrodt, 2004a, p. 5). Ballentine and Nitzschke argue along the same lines: "Overall progress on achieving improved business conduct through

company self-regulation has been slow and partial" (Ballantine and Nitzschke 2004b, p. 49). Receptible are "only those companies eager to safeguard their reputational value or those genuinely convinced of the business case for CSR. It is hardly surprising that large transnational companies have proven most responsive . . .; they are headquartered in developed countries where large and vocal NGOs are based, and they make for good targets of advocacy campaigns and costly law suits" (Ballantine and Nitzschke 2004b, p. 50).

Given the resistance of large and influential sectors of the business world, binding regulatory frameworks on the other hand are hard to achieve. Hence one has to be careful not to be trapped in an 'either-or' debate that does not take the issue any further.[8] A 'co-regulatory' approach has been proposed here as an alternative (see Chapter 2). An example could be the Kimberley Process, which seems to have had some positive effects. Though far from perfect, it might serve as an example and as a starting point to elaborate such an approach further. Ideas regarding comprehensive certification regimes and a worldwide ban on trade in conflict commodities should be further developed along the lines of co-regulation.

4. The role of the UN Norms

The arena for the discussion of such ideas can be provided by the UN system. The Global Compact or the World Bank's Extractive Industries Review are good examples of what can be achieved in this context—and also of what cannot. Of course, in terms of tangible practical outcomes, the GC does not have much to offer. However, as a forum for dialogue, education and promotion of new ideas it does have its merits.[9] The EIR was a great endeavor in bringing together a large variety of stakeholders in common discourse and resulted in some important recommendations but, again, the problems lie in implementation and the lack of real changes on the ground.

The UN Norms could take the whole process a decisive step further. They are not drafted as a legally binding treaty and they do not have a legal status as such. Instead "they summarize existing international legal principles that apply to governments as well as to the conduct of transnational corporations and other companies. Hence, the legal impact of the Norms derives not from the text itself, but from the underlying treaties and other instruments summarized in the document". The Norms include some basic implementation procedures, and "compliance with the Norms is subject to monitoring that is independent, transparent, and includes input from relevant stakeholders" (Weissbrodt 2004a, p. 5ff.). In cases of violation of the Norms they "call for reparations, return of property, or other compensation" (p. 5). They furthermore call on governments to establish a framework for application of the Norms. Hence the Norms are more concrete than e.g. the GC or the OECD Guidelines, but do not posit to be a strict mandatory regulations mechanism. It has to be further examined whether the UN Norms could provide an adequate framework for co-regulative approaches.

5. Targeted sanctions and international criminal tribunals

When it comes to the "hard" mechanism for controlling, regulating and enforcing conflict-related business behavior, targeted sanctions, panels of experts and international criminal tribunals come to the fore. International sanctions imposed by the UN Security Council have played an important role in creating the necessary political momentum for the Kimberley Process and the resulting international regime for the diamond trade. While enforcement remains a major issue for international embargoes, the cases of Angola and Liberia show that—given the necessary resources—loopholes can be closed. At the very least, an international embargo drives major international companies out of zones of conflict. In a similar vein, reports by UN-mandated expert panels (whether in conjunction with an embargo or not) play an important role in publicizing the role of companies in resource conflicts, and are often effective in pressuring government officials and company executives into action. Very few managers would risk the bad publicity and the potential legal prosecution associated with 'sanction-busting'. The down side of this development is the risk that the commercial vacuum created by the departure of an established company is exploited by rogue operators unless effective enforcement measures are put in place. Another issue which needs to be seriously monitored is the humanitarian impact of these actions, as even targeted commodity embargoes result in job losses. While the working conditions of artisanial diamond (or coltan) miners might be appalling, most would prefer this job to having no source of income at all. Commodity embargoes therefore should not be used as a diplomatic 'fig leaf' while the international community is pondering other initiatives, but should, after careful consideration, be used in conjunction with effective monitoring mechanisms to ensure a maximum of compliance.

Recommendations

A variety of recommendations on how to deal practically with the 'business in conflict' issue have already been published, put forward by NGOs, academics, international organizations, business confederations or state agencies.[10] We do not contest that we can be particularly innovative in this regard. Rather, we have to be eclectic, highlighting some points which—on the basis of our assessment of the problem and the opportunity structures of contemporary politics—seem to be of outstanding importance and/or of having a chance of at least mid-term implementation. The recommendations address companies (MNEs in

particular), international organizations (UN agencies in particular), the German government, and German governmental agencies. Coming from a German research institute, we take them as an example for what state authorities could do.

We are deliberately confining ourselves to a limited number of recommendations, although we are well aware that one could present many more. Furthermore we are well aware that—according to the co-regulation approach promoted in this paper (see Chapter 2)—the combined and co-ordinated effort of companies, states, international organizations and civil society will produce the best results. Hence the following recommendations have to be seen as mutually re-enforcing. However, several questions with regard to combination and coordination of efforts remain open, e.g. concerning the eligibility to participate in co-regulation endeavors[11] or concerning general guidelines for the conduct of co-regulation processes.

Companies

Companies should:

- Conduct a new type of comprehensive conflict risk assessment, addressing 'risk to community' instead of 'risk to business'. Of utmost importance here is an inclusive multi-stakeholder approach, involving local actors in particular.[12]

- Guarantee local communities access to timely and comprehensive information about planned projects.

- Engage in consent processes with local communities and other groups directly affected by projects, involving them meaningfully in decision-making in order to obtain their "free prior and informed consent" (Extractive Industries Review, 2003, Executive Summary, p. 3). Such processes should really be open-ended, not only dealing with the 'how' of a project, but also with 'whether' the project should actually be pursued. Policies and procedural rules will have to be developed that address questions such as: Who is eligible for participation in community consultations and decision-making? What is the minimum consensus necessary to proceed? In order to guarantee utmost transparency, consultations need to be documented and documentation made accessible to all stakeholders.

- Pursue inclusive hiring and compensation practices.[13]

- Make public the provisions of their security arrangements with state authorities and private security firms, and establish community-based security arrangements involving people from local communities.

- Publish what they pay—to central and local governments, communities and other stakeholders.

- Join in efforts to develop industry-wide clear and simple codes of conduct that cover the basic issues of conflict-sensitive behavior.

International organizations

- Within the United Nations system, an institutional focus for business and conflict issues should be established. The Secretary General's recently appointed Special Representative for Human Rights and Transnational Corporations, Professor John Ruggie, must address the role of business in conflict in specific and concrete terms.

- The UN should make more use of 'panels of experts' modeled along the lines of the UN Panel of Experts on the DRC. This has proven to be a useful instrument for 'naming and shaming' actors involved in conflict-related illicit business activities.

- The WB should develop clear guidelines for responsible investment in conflict(-prone) zones.

- The idea of 'no go' thresholds "for situations where the potential for generating violence exceeds acceptable levels" (Goldwyn and Switzer, 2003, p. 2) should be pursued further and conflict-related criteria for 'no-go' zones elaborated.

- The International Criminal Court should address 'business in conflict' issues; the activities of private business in the DRC should become a test case.

- The UN should "design targeted sanctions to extend to the full range of conflict entrepreneurs and war profiteers, including rebel groups, rogue companies, members of transnational crime organizations, and complicit state authorities and multinational enterprises" (Ballentine, 2004, pp. 11–12);

- The UN should be more consistent and transparent with regard to the circumstances under which sanctions are imposed, where embargoes are used, their enforcement should be supported by the international community and monitored by independent experts;

- UN member states "should be urged to adopt appropriate legislation to criminalize sanction-busting and commit themselves to holding their own nationals accountable" (Ballentine, 2004, p. 12).

- To limit the humanitarian impact of commodity sanctions, the UN should opt for internationally-supervised revenue management schemes, or allow the exemption of commodities coming from internationally-certified producers, wherever possible.

The German government and German governmental agencies

The German government and German governmental agencies should:

- Elaborate clear norms and criteria for conflict-sensitive business behavior, in cooperation with other stakeholders: business, NGOs, and academia. The principles guiding the German development assistance in general and the *Aussenwirtschafts-förderung* in particular should be amended respectively.[14]

- Strengthen the OECD Guidelines National Contact Point. As in most other countries, the NCP lacks publicity, access is difficult and procedures are not only complicated but lengthy and non-transparent. The German Government should therefore enhance the visibility and efficiency of the German NCP and include NGOs into its work on an equal footing so that it can become an independent watchdog institution.

- Join the EITI and the Voluntary Principles.

- Support the UN Norms and the related Commentary.

- Make support of companies dependent on a prior analysis of possible impacts of planned projects with regard to their conflict sensitivity (conflict impact assessment). As a minimum requirement, export credit guarantees and investment guarantees should only be granted if the companies declare their acceptance of the OECD Guidelines and—at a later stage—of the UN Norms.

- Gear official German development assistance especially towards capacity-building for governmental agencies that are of special relevance for 'business in conflict' (e.g. border monitoring, customs control, financial oversight), towards assistance of 'watchdog' NGOs on the ground in conflict(-prone) regions, and towards support for organizations in the private business sector (employers' associations, chambers of commerce) and trade unions.

Endnotes

[1] Even in times of globalization and global governance the main actor is the state : "Conflict prevention and resolution must remain first and foremost a fundamental responsibility of nation states. Business has a role to play, however, in the way it manages its own operations to avoid contributing to conflict, the way it manages risks and crises created by conflict and the way it works with other stakeholders to prevent or resolve conflict" (Nelson, 2002, p. 211).

[2] See also International Alert's earlier report on 'The Business of Peace': "At a very minimum . . . a company should aim to be compliant with national regulations and where applicable international laws and standards. It should aim beyond compliance, however, to minimise risks and harm from its operations. Ideally, a company should aim to proactively create societal value-added and new business opportunities by optimising its positive multipliers and impacts on society" (Nelson, 2000, p. 7).

[3] The final report of the UN Congo Panel (October 2003) left several company inquiries and human rights problems unresolved. The Chief Prosecutor of the International Criminal Court has indicated that he wants to make the DRC issue a case for investigation and prosecution. He has announced that his office is investigating the role of corporate executives in committing offences within his jurisdiction, that is, war crimes, crimes against humanity, and genocide.

[4] Common community relations projects are too narrowly conceptualized; they "often fail because they focus on the most apparent or immediate threat to the company and ignore the relationship between the local context and the broader sociopolitical context. Such community relations activities do not address the underlying causes of intergroup conflict and thus frequently backfire on the company" (CEP, 2002b, Executive Summary).

[5] At the same time, corporations have to avoid becoming a substitute for government and state authorities. "The private sector can support and influence government action, but corporate engagement cannot, and should not, be viewed as a substitute for good and pro-active government" (Nelson, 2000, p. 12).

[6] "The most obvious weakness on the side of the public sector is simple lack of attention. This leads us to recommend the creation of a central focus for business and conflict issues within the United Nations system" (Ballentine and Haufler, 2005, p. 54).

[7] To give just one example: in the Niger Delta there is generally no independent verification of whether or not oil spills have been caused by sabotage or not (compensation does not have to be paid for sabotage-caused spills so that oil companies have an interest in blaming spills on sabotage); provision of independent verification could have clearly conflict-mitigating and -preventive effects.

[8] As an example for argumentation in favor of a comprehensive legal framework, see Ballentine and Nitzschke, 2004b. Creating such a framework "based on international human rights norms has several distinct advantages over the voluntary standards . . . : human rights are extensively codified, they have comprehensive international coverage, and enjoy broad international acceptance. Such a framework would thus be applicable not only to high-visibility multinationals but also to those middlemen and brokers that thus far enjoy impunity" (Ballentine and Nitzschke, 2004b, p. 53). Others also favor "… the creation of robust regulatory frameworks addressing the global traffic of resources that make armed conflict feasible" as a long-term objective (International Peace Academy, 2003, p. 5). Advocates of a mandatory approach appeal to the enlightened self-interest of corporations: As there exists the imminent danger that positive steps already undertaken by some corporations will be undermined by competition and free riding by other less responsible companies, it is necessary to develop institutions and instruments that provide for the levelling of the playing field. This is another argument in favor of all-encompassing binding norms and regulatory frameworks.

[9] Even if one has to take into account David Weissbrodt's *caveat*: the GC "has been very successful in educating and encouraging about 1,650 companies to join, but there are about 75,000 transnational corporations in the world. What about those other 73,000 companies?" (Weissbrodt, 2004a, p. 5).

[10] Just to name a few: Banfield, Haufler and Lilly, 2003 (International Alert); Luca, 2003 (ILO); Ballentine, 2004; Nelson, 2002; Bray, 2003; Switzer and Ward, 2004; NHO/PRIO, 2003; International Alert, 2005; Ballentine and Haufler, 2005 (Global Compact).

[11] What is most interesting in this respect is the question of what conditions should be developed for the inclusion of specific NGOs. As the NGO 'industry' is probably the most unregulated industry in the world, it is obvious that not every organization that wants to participate should be allowed to.

[12] A helpful tool in this regard for companies from the extractive industries is IA's conflict-sensitive business practice guidance which was only published in March 2005 (International Alert, 2005).

[13] Guiding questions in this respect are: "Are company's practices non-discriminatory—on ethnic, religious, political affiliation, sex, disability and other grounds: in recruitment, occupation assignment, remuneration, training, promotion, retrenchment, etc.? Among other things, does the company limit (as much as feasible) resorting to expatriates and migrant workers, and granting them different employment and working conditions, including remuneration, from those granted to local workers? Also: Does the company restrain internal and external bribery in recruitment, advancement and related issues?" (Luca, 2003, p. 16).

[14] In the Global Compact context, Ballentine and Haufler recommend that donor governments, IFIs and regional development banks "create conflict-sensitive standards for government procurement, lending, official development assistance, export credit, insurance and investment promotion programs" (Ballentine and Haufler, 2005, p. 45).

List of selected Acronyms and Abbreviations

CDHAP	Community Development and Humanitarian Assistance Program
CEO	Chief Executive Officer
CEP	Corporate Engagement Project
CITES	Convention on International Trade in Endangered Species
CoW	Contract of Work
CPP	Canada Pension Plan
CRIA	Conflict Risk and Impact Assessment
CRS	Catholic Relief Service
CSBP	Conflict Sensitive Business Practice
CSR	Corporate Social Responsibility
DAC	Development Assistance Committee (of the OECD)
DDR	Disarmament, Demobilization and Reintegration
DFAIT	Department of Foreign Affairs and International Trade
DFID	Department for International Development
DRC	Democratic Republic of the Congo
EA	Environmental Assessment
ECCR	Ecumenical Council for Corporate Responsibility
EIR	Extractive Industries Review
EITI	Extractive Industries Transparency Initiative
EP	Equator Principles
FAO	Food and Agriculture Organization
FATF	Financial Action Task Force on Money Laundering
FMU	Forest Management Unit
FSC	Forest Stewardship Council
GAM	Gerakan Aceh Merdeka
GC	Global Compact
GDP	Gross domestic product
GMI	Global Mining Initiative
GRI	Global Reporting Initiative
GOS	Government of Sudan
HRW	Human Rights Watch
IA	International Alert
IFC	International Finance Corporation
IFI	International financial institution
IISD	International Institute for Sustainable Development
ILO	International Labour Organization
IMET	International Military Education and Training

IMF	International Monetary Fund
IPA	International Peace Academy
KPCS	Kimberley Process Certification Scheme
LNG	Liquefied natural gas
MMSD	Mining, Minerals and Sustainable Development
MNC	Multinational corporation
MNE	Multinational enterprise
MoU	Memorandum of Understanding
NCP	National Contact Point
NEPAD	New Partnership for Africa's Development
NGO	Non-governmental organization
NNPC	Nigerian National Petroleum Corporation
OECD	Organisation for Economic Co-operation and Development
OPM	*Organisasi Papua Merdeka*
PMC	Private military company
PPP	Public Private Partnership
PWYP	Publish What You Pay
SCD	Shell Community Development
SME	Small and medium-sized enterprises
SPDC	Shell Petroleum Development Company
SPLA	Sudan People's Liberation Army
SSR	Security sector reform
TNC	Transnational company/corporation
UNCHR	United Nations Commission on Human Rights
UNDP	United Nations Development Program
UNEP	United Nations Environmental Program
WB	World Bank
WBG	World Bank Group
WEF	World Economic Forum

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BICC
at a glance

BICC is an independent, non-profit organization dedicated to promoting peace and development through the efficient and effective transformation of military-related structures, assets, functions and processes. Having expanded its span of activities beyond the classical areas of conversion that focus on the reuse of military resources (such as the reallocation of military expenditures, restructuring of the defense industry, closure of military bases, and demobilization), BICC is now organizing its work around three main topics: ***arms, peacebuilding and conflict.*** In doing this, BICC recognizes that the narrow concept of national security, embodied above all in the armed forces, has been surpassed by that of global security and, moreover, that global security cannot be achieved withoutseriously reducing poverty, improving health care and extending good governance throughout the world, in short: without human security in the broader sense.

Arms: To this end, BICC is intensifying its previous efforts in the fields of weaponry and disarmament, not only through its very special work on small arms but also by increasing its expertise in further topics of current concern such as the non-proliferation of weapons of mass destruction, arms embargoes and new military technologies.

Peacebuilding: BICC is extending its work in the area of peacebuilding. In addition to examining post-conflict demobilization and reintegration of combatants and weapon-collection programs, the Center aims to contribute, among other things, to the development of concepts of security sector reform with an emphasis on civilmilitary cooperation, increased civilian control of the military, and the analysis of failed states.

Conflict: BICC is broadening its scope in the field of conflict management and conflict prevention, including tensions caused by disputes over marketable resources and transboundary issues such as water.

These three main areas of analysis are complemented by additional crosscutting aspects, for example, gender, pandemics, or environmental protection.

Along with conducting research, running conferences and publishing their findings, BICC's international staff are also involved in consultancy, providing policy recommendations, training, and practical project work. By making information and advice available to governments, NGOs, and other public or private sector organizations, and especially through exhibitions aimed at the general public, they are working towards raising awareness for BICC's key issues.

While disarmament frees up resources that can be employed in the fight against poverty, conversion maximizes outcomes through the careful management of such transformation of resources. It is in this sense that they together contribute to increasing human security.

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