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United Nations Resolutions and the Struggle to Curb the Illicit Trade in Conflict Diamonds in Sub-Saharan Africa

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Abstract

This article examines the extent to which revenues from the trade in rough diamonds have funded civil war in African countries and the difficulties encountered by the United Nations in putting an end to it. As case studies, the article considers the conflicts in Angola, the Democratic Republic of the Congo and Sierra Leone where the illicit trade in rough diamonds, also referred to as “conflict diamonds” or “blood diamonds,” provided most of the funds used by rebel groups in their war efforts. The article further examines the role played by the diamond industry, the international community and diamond importing countries such as the United States and Belgium in the trade of conflict diamonds. The article concludes that several resolutions passed by the United Nations Security Council concerning “conflict diamonds” were at times not successful because of indifference on the part of the international community.

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I. Introduction

Sub-Saharan Africa is blessed with a vast potential for natural resources. However, this endowment in natural resources has not led to economic and social growth but rather to suffering and social strife from the colonial to the post-colonial era. In the past three decades for instance, countries such as Angola, Sierra Leone, Liberia and the Democratic Republic of the Congo (“DRC”) were all lured into civil wars financed mainly by the sale of natural resources such as diamonds, gold, colombo-tantalite (coltan) and timber to name a few. These natural resources were often exploited illegally, then smuggled out of the country and sold on the international market, with the proceeds used to purchase weapons. In the past decade alone, some 3.7 million people lost their lives while 6.5 million became refugees as a result of civil wars in these three countries.¹

In Angola, the civil war lasted for nearly three decades, from 1975 to 2002. The conflict in Sierra Leone spanned 10 years, starting in 1991 and ending in 2002. In the DRC, the civil war in the post-Mobutu era started in 1998 and ended in 2002. Rebel groups in these three countries relied heavily on the trade of rough diamonds to sustain their war efforts, that is, to purchase arms and munitions, to pay and feed troops and to keep their strategic alliances intact. Certainly, diamonds were not the only culprit in funding conflicts in these countries. However, when compared to other natural resources such as petroleum and coltan, diamonds were the most significant contributor to the war efforts. The United Nations (“UN”) refers to these diamonds as “blood diamonds” or “conflict diamonds,” signifying that these diamonds were mainly traded by rebel groups to finance their military activities, including attempts to undermine or overthrow legitimate governments.

This article focuses on presenting some evidence as to how rough diamonds were used as the main source of revenue by rebel movements in their war efforts in Angola, Sierra Leone and the DRC. It also examines the actions of the UN, the diamond industry, the international community and the diamond importing countries such as the United States and Belgium with regard to this issue of “conflict diamonds.” It shows that without the collaboration of the international community, curbing the illicit trade in conflict diamonds is a difficult task to accomplish. Indeed, the United Nations Security Council (“UNSC”) passed several resolutions regarding conflict diamonds in these three countries without much support from the international community. In fact, those countries heavily involved in the diamond trade decided either not to comply with the UNSC resolutions or found it hard to do so.

The lack of compliance with UN resolutions by diamond traders and the international community incited organizations such as Global Witness and others to intervene. Global Witness, an NGO whose objective is to expose the connection between environmental exploitation and human right abuses, decided in 1998 to investigate the issue of corporate accountability in the Angolan civil war. Their investigation revealed the international community’s disregard for the UNSC embargo on illegitimate diamond sales in Angola and exposed the extent to which revenues from oil and diamond sales funded the Angolan conflict.² It became clear that the primary concern of diamond trading countries and companies was profit

¹ See United State House of Representatives (2001) section II.

² See Global Witness (1998).

and not the devastating effects their actions had on the people of Africa. Indeed, countries with major diamond importing centres such as Antwerp, New York, Tel Aviv, Bombay and London could not, for one reason or another, abide by the UNSC resolutions.

Belgium, for instance, is home to the world's leading diamond market where diamond trading activities are structured around the *Hoge Raad voor Diamond* or Diamond High Council ("HRD"). This non-profit organization has the responsibility, among other things, for documenting Belgian diamond purchases. However, the HRD recording system identifies the country from which the diamond was last exported as the country of origin – a procedure that hinders the tracking of diamond movements, which in turn complicates efforts to curtail the trade in conflict diamonds. Thus, depending on their journey from one trading centre to another, conflict diamonds from Angola, the DRC and Sierra Leone might be officially imported by Belgium while being registered as coming from Liberia, Guinea, Israel, India, or the United Kingdom.

In October 1999, Global Witness along with four other European organizations (Medica International, Intermon, the Netherlands Institute for Southern Africa and Novib) launched the "Fatal Transaction" public awareness campaign, which called on the public and other concerned organizations to demand that governments and companies involved in extractive industries introduce effective controls to make certain that the trade in natural resources does not fund or support conflict and economic injustice in Africa. The Fatal Transaction campaign led, in June 2000, to the first "Kimberley Process" meeting – a meeting that addressed the question of implementing a worldwide certificate-of-origin ("CO") system for diamonds.

Likewise, in 2000, Partnership Africa Canada, a coalition of Canadian and African organizations working to promote sustainable human development policies that benefit Africa and Canada, exposed the extent to which Sierra Leone diamonds were funding that country's civil war. Partnership Africa Canada concluded in its report that no peace would be sustainable unless Sierra Leone and the international community addressed the problems related to the mining and trading of diamonds.³ The illicit trade in diamonds and other natural resources in the DRC during its civil war was exposed by the UNSC in its 2001 report on illegal resource exploitation in the Democratic Republic of the Congo.⁴ This UN report concluded that the war in the DRC, which allegedly started because of border insecurity with neighbouring Rwanda and Uganda, evolved into a fight over the control of natural resources and the illegal exploitation of diamonds and other DRC minerals.

As a result of all the reports and campaigns against conflict diamonds, the US House of Representatives held several hearings on the African diamond trade, leading to the drafting of the *Clean Diamond Trade Act – HR 2722*, which was signed into law on 25 April 2003.⁵ For their work on the issue of conflict diamonds, Global Witness and Partnership Africa Canada were nominated for the 2003 Nobel Peace Prize. We now examine each of the contemporary African conflicts fuelled by competition for conflict diamonds among the warring parties, starting with Angola.

³ See Smillie et al. (2000).

⁴ Final report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo (2001b).

⁵ For more on *The Clean Diamond Trade Act*, see Section VII.

II. Angola

The civil war in Angola started right after it gained independence from Portugal in 1975 and continued until the death of Jonas Savimbi in February 2002. Jonas Savimbi was the leader of UNITA (*União Nacional para a Independência Total de Angola*), one of the main rebel political parties that waged war against the post-colonial government of Angola. Savimbi founded UNITA in 1965 during Angola's war for independence from Portugal. After the departure of the Portuguese, war quickly broke out between the Marxist MPLA (*Movimento Popular da Libertacao de Angola*), backed by Cuba and the Soviet Union and UNITA supported by the United States and South Africa's white minority regime. The MPLA was installed in the capital as the legitimate government of Angola while UNITA fought in its rural areas. UNITA's war against MPLA continued, however, even after a 1991 peace agreement between the two rival groups. It was only upon the assassination of Jonas Savimbi by the Angolan government's troops, on 22 February 2002, that hostilities came to an end after 27 years of civil strife.

The civil war in Angola cost the lives of at least 650,000 Angolans between 1974 and 1999 with thousands more disfigured by landmines along with millions internally displaced.⁶ The negative effects of the Angolan civil war were not only social but also economic. According to human rights advocates, during the past three decades, a tiny elite of Angolans had amassed enormous fortunes through oil, diamonds, weapons and other illicit business deals, while the rest of the population was left destitute. A 2001 survey of 6,600 Angolan households carried out by the National Institute for Statistics in collaboration with the United Nations Children's Fund ("UNICEF") provided some alarming social statistics on Angola following three decades of civil war.⁷

Data from the 2001 survey, published in May 2002, show among other things that 50 percent of rural children and 40 percent of urban children did not attend school. Two out of every 10 pregnant women did not see any healthcare provider at all and more than 50 percent of mothers gave birth without medical assistance. Malnutrition affected 30 percent of children with a child mortality rate around 250 deaths for every 1,000 live births, the third worst rate in the world. The survey also found a much higher number of orphans than expected. About 75,000 children aged 0-14 years lost one or both parents to the war and 100,000 children in the same age group lost parents to AIDS.

The social decay in Angola was, for the most part, the result of three decades of civil war. Throughout the conflict, public services, especially health and education, were given increasingly lower priority by the government of Angola. While the share of public services in the government budget saw a steady decline, the share of defense and public order spending on the armed forces and police grew. The latter continued to rise accounting for about 41 percent of the government's expenditures in 1999, while education received only 4.8 percent and health 2.8 percent.⁸ In 2001, amid all the wealth from oil and diamond revenues, Angola ranked 161st out of 175 countries on the Human Development Index published by the United Nations Development Programme ("UNDP").

⁶ See Global Witness (2002).

⁷ See OCHA and IRIN (2002b).

⁸ See OCHA and IRIN (2002 b).

The Angolan civil war was mainly financed by revenues from UNITA's illegal sale of rough diamonds. According to Global Witness, the diamond trade generated about \$3.7 billion⁹ for UNITA between 1992 to 1997.¹⁰ Funds from the sales of diamonds allowed UNITA to restock its munitions and to maintain a complex military operation in the region, making ever more difficult any progress towards peace in Angola. In fact, UNITA decided to ignore the 1992 election results and to avoid meeting its obligations under the Lusaka cease-fire protocol signed in 1994 between the MPLA and UNITA.

In view of UNITA's actions, the UNSC decided in 1998 through Resolutions 1173 and 1176 to put an embargo on the trade of unofficial Angolan diamonds, that is, diamonds not sold by the legitimate government of Angola and not accompanied by a CO. Unfortunately, preliminary research conducted by Global Witness showed a total lack of respect for the UNSC embargo by the international community mainly because diamond companies were not held accountable for their actions. Thus, these same companies continued their operations without fear of any reproach from consumers, governments or the UN. Some of the companies bought UNITA's diamonds in open defiance of the UN sanctions. The UNSC reported that all evidence pointed to the fact that UNITA mainly traded with companies it trusted and with whom it had long-standing business relations. The UNSC Resolutions 1173 and 1176 did not, therefore, result in a major crackdown on illegal diamond trading in Angola. The trade of embargoed diamonds continued both by air and over land through neighbouring countries such as Zambia, the DRC, and the Republic of the Congo, providing UNITA with enough funds to keep feeding the war.

The 1998 Global Witness investigations on conflict diamonds laid bare the international community's disregard for the UNSC embargo on illegitimate diamond sales in Angola and elsewhere in Africa prompting the UN to get tough on sanctions against the illegal trade of Angolan diamonds. In May 1999, the Chairman of the UN Angolan Sanctions Committee issued a report that contained recommendations on how to improve the implementation of the embargo on unofficial Angolan diamonds. However, tougher sanctions did nothing to stop the illegal flow of diamonds. Indeed, the UNSC stated, in its 2001 supplemental report on the monitoring of sanctions against UNITA, that it was business as usual for the illegal Angolan diamond trade.¹¹ Diamond-trading countries continued to deal in Angolan embargoed diamonds even after all states were required to take necessary measures to forbid the direct or indirect importation of Angolan diamonds not controlled by the CO regime. According to the UNSC, except for one diamond parcel in Belgium, not a single delivery of illegal Angolan gems was intercepted prior to June 1998. Angolan embargoed diamonds, with a value almost equivalent to the output of Australia or Namibia, seemed to disappear into thin air, despite the apparently enormous volume of trade.

Moreover, diamond trading centres in Belgium, South Africa and Israel were still readily accepting illegal diamonds from Angola, including UNITA diamonds. The UNSC also reported that, between 1999 and 2000, sixteen companies based in the same three countries along with traders from Cyprus, the DRC, Tanzania and Zambia were still trading Angolan embargoed diamonds. Antwerp (Belgium) and

⁹ All monetary figures are in US dollars unless otherwise indicated.

¹⁰ See Global Witness (2002).

¹¹ See UNSC (2001c)

South African markets were identified as the two key points of sale or transit for embargoed diamonds, with Israel being used as a laundering route for some imports. The Angola Selling Corporation affirmed to the Chairman of the UNSC that every day, embargoed UNITA diamonds worth between \$1 million and \$1.2 million left Angola, which amounts to an annual value of \$350 million to \$420 million. Diamonds smuggled from Angola, including UNITA embargoed diamonds, represented approximately five percent of the value of the world's rough diamond supply in 2000.¹²

The De Beers Diamond Company was also one of the international diamond trading firms that participated in the illegal and lucrative trade of Angolan diamonds despite the UN embargo. The primary objective of De Beers was to maintain control over the international diamond market rather than to abide by UNSC resolutions. According to Global Witness, De Beers' annual reports during the 1990's clearly show that the company was heavily involved in the purchase of illegal Angolan rough diamonds especially when the majority of Angolan diamonds was under the control of UNITA. Yet, shortly after the launch of the Fatal Transactions public awareness campaign back in October 1999, De Beers decided to comply with the UNSC resolutions and announced an embargo on the purchase of all diamonds originating from Angola.

The continuing illegal trade of Angolan diamonds was facilitated both by a poor mechanism of control and verification of CO by the Angolan government and by the smuggling of diamonds into neighbouring countries. The poor mechanism of control and verification of CO made it possible for UNITA to launder diamonds through neighbouring countries, especially the DRC, and bring them to the international market. According to the same UNSC supplemental report in 2001, one of the legal buyers of diamonds in the DRC mentioned that about 20 percent of the stones seen in Tshikapa and Kinshasa were said to be Angolan.¹³

The obvious dangers involved in the extraction and smuggling of Angolan diamonds did not stop more Congolese from getting into the business, drawn by the lure of lucrative profits. Many Congolese believed that the enormous rewards from diamond sales exceeded the risks. Thus, they continued to smuggle diamonds out of Angola. According to the UN, "diamond smuggling from the DRC was one of the most intractable problems facing those concerned with the control of conflict diamonds."¹⁴ This fact was substantiated by the government of Angola which informed the UNSC Mechanism that, aside from UNITA's embargoed diamonds, its country was facing diamond smuggling on a large scale from players other than UNITA, as mines previously controlled by the latter were captured. Therefore, even though UNITA was the principal target of the UN sanctions, all diamonds from Angola not accompanied by a government CO were embargoed and had to be intercepted.

Some of the trade in Angolan embargoed diamonds was indirectly traced by examining the change in diamond export levels of countries that are commonly used as transit states or trading routes for UNITA diamonds – countries such as the DRC, South Africa, Tanzania and Zambia. Zambia, for instance, registered a huge increase in its post-1998 diamond export levels because of stones smuggled out of Angola.

¹² See UNSC (2001c) 141.

¹³ See UNSC (2001c) 170.

¹⁴ See UNSC (2001c) 169.

The government of Belgium reported that Zambian diamond exports to Belgium between February and May 2001 totalled 35,614.14 carats carrying an estimated value of \$13.3 million – twenty times more valuable than officially recorded Zambian diamond exports between 1995 to 1998 which were valued at \$564,272. In addition, diamonds exported by Zambia between 1998 and 2001 had an average carat value of \$373.45 indicating that they were high-quality gem diamonds that Zambia does not largely produce, leading to the suspicion that they might be embargoed Angolan diamonds.¹⁵

Nevertheless, one should not overlook the difficulties encountered by countries responsible for intercepting embargoed diamonds given the complexity of the diamond trading system. The trading in rough diamonds included both direct imports into countries and trading between diamond centres. This made it harder for a single state to collect the kind of information necessary to intercept illegal diamonds. Therefore, additional anti-smuggling measures had to be implemented in each state involved in diamond trading before the UN sanctions could be successful. Some states such as Belgium and Switzerland decided to do so by putting in place detailed procedures and additional precautions on the importation of diamonds. It became obvious that only the creation of an international CO system would make it possible for the diamond industry to deter the illegal trade in diamonds and in particular, trade in conflict diamonds.

III. Sierra Leone

The decade-long civil war in Sierra Leone that began in 1991 caused 75,000 deaths, created some 500,000 refugees and displaced around 2.25 million people.¹⁶ The rebellion in Sierra Leone was in large measure financed by revenues from the sale of diamonds by the Revolutionary United Front (“RUF”) rebels. As a result, it became a well-equipped and deadly fighting force. The RUF rebels were known for exchanging diamonds for arms with Liberia making it possible to restock their munitions and to maintain a complex military operation in the region. During the ten years of war, the RUF raised an estimated \$25 million to \$125 million per year through the sale of diamonds, with a reported high of \$200 million.¹⁷ Consequently, diamond trading nurtured the conflict in Sierra Leone while stealing its patrimony, leading to the country’s total destabilization, all of which was reflected in the country’s standing at the bottom of the UNDP Human Development Index in 2001.

The RUF rebels sold their diamonds mainly through Liberia and the Ivory Coast. Liberia – which was known as a main criminal warehouse for diamonds, guns, money laundering, terror and other forms of organized crime – had diamond-export levels that surpassed its own diamond production capability. Annual Liberian diamond mining capacity was between 100,000 and 150,000 carats at the time, however the HRD recorded over 31 million carats of Liberian diamond imports into Belgium between 1994 and 1998 – an average of more than 6 million carats a year.¹⁸ It was believed that many of the so-called “Liberian” diamonds were of Sierra Leone origin with others allegedly coming from as far as Angola.

¹⁵ See UNSC (2001c) 141.

¹⁶ See Smillie et al. (2000).

¹⁷ See Amnesty International (2002).

¹⁸ See Smillie et al. (2000).

Like Liberian diamonds, most of the Ivory Coast diamonds were known to have originated from Sierra Leone. The Ivory Coast is not a big producer of diamonds, yet, according to the HRD record, it apparently exported an average of more than 1.5 million carats to Belgium between 1995 and 1997.¹⁹ This was a clear sign that diamonds originating from other countries, especially Sierra Leone, were being exported through the Ivory Coast. The HRD's misleading information on the origin of rough diamonds was due to its system of documenting diamonds purchase, which recorded the origin of a diamond as the country from which the diamond was last exported. Consequently, depending on their route from one trading centre to another, diamonds produced in one country could be officially imported and registered by HRD as originating from another country.

In addition, neither the Belgian government nor the HRD had good estimates of the quantity of diamonds imported by Belgium from any particular country. For instance, in 1998, while the HRD recorded imports of about 770,000 carats from Sierra Leone, the Sierra Leone government recorded only 8,500 carats of diamond exports to Belgium during the same year.²⁰ The implementation of a good tracking system became vital in determining the true origin of rough diamonds and in hindering the trade of conflict diamonds.

In view of the role played by diamonds in the Sierra Leone civil war, the UNSC decided on 5 July 2000 through Resolution 1306 that all states should take necessary measures to prohibit the direct or indirect import of all rough diamonds from Sierra Leone into their territory. In addition, the UNSC requested that an effective CO regime for trade in rough diamonds be urgently implemented in Sierra Leone and that international organizations assist the government of Sierra Leone in this matter. The objective of the CO regime was to distinguish official diamonds mined legitimately in Sierra Leone from unofficial ones so that those produced legitimately would be exempt from the UN embargo.

Moreover, the UNSC asked that the International Diamond Manufacturers Association (IDMA), the World Federation of Diamond Bourses (WFDB), the HRD and all other representatives of the diamond industry, work with the Sierra Leone government and the Committee established by resolution 1132 (1997) to develop methods and working practices to facilitate the effective implementation of Resolution 1306. A panel of experts was to be established, among other things, to collect information on possible violations of the measures imposed by paragraph 2 of Resolution 1171 (1998), those imposed by paragraph 1 of Resolution 1306 and the link between the trade in diamonds, arms and related material.

However, research conducted by Global Witness also showed a total lack of respect for the UNSC embargo on illicit trade in Sierra Leone diamonds by the international community and diamond-trading companies. Like in Angola, diamond-trading companies continued to deal in embargoed Sierra Leone diamonds in complete immunity. De Beers and its trading company maintained that they no longer bought Sierra Leone diamonds as required by the UN embargo. However, since De Beers attempts to buy out all supplies of rough diamonds in the world in order to keep diamond prices high, it was virtually inconceivable that the company was not, in one way or another, purchasing diamonds smuggled out of Sierra Leone. In addition, De Beers had a diamond trading company in Liberia and a buying office

¹⁹ See Smillie et al. (2000).

²⁰ See Smillie et al. (2000).

in Conakry, Guinea, even though these two countries produce very few diamonds themselves.

The UNSC review of the measures imposed by paragraph 1 of Resolution 1306 led to Resolution 1385 of 19 December 2001. In the latter, the UNSC expressed its continued concern about the role played by the illicit diamond trade in the Sierra Leone conflict and decided to keep the measures imposed by paragraph 1 of Resolution 1306 in place for a new period of 11 months beginning 5 January 2002. In addition, the UNSC welcomed the establishment and implementation of a CO regime for the trade in Sierra Leone diamonds and the export of rough diamonds from Sierra Leone certified under that regime, thus limiting the flow of conflict diamonds out of the country. Rough diamonds controlled by the Sierra Leone government under the CO regime continued, nonetheless, to be exempt from these measures. The UN also welcomed the ongoing efforts of the Economic Community of West African States ("ECOWAS") as well as individual West African countries towards developing a region-wide certification of origin.

Moreover, due to the key role played by Liberia in the diamond-fuelled violence in Sierra Leone, the UNSC decided on 7 March 2001, through Resolution 1343, to impose a full embargo on Liberian diamonds. Specifically, in paragraph 6 of Resolution 1343 the UNSC asked that all states take necessary measures to prevent the direct or indirect importation of all rough diamonds from Liberia, whether or not such diamonds originated in Liberia. In addition, paragraph 2(c) of the same Resolution asked that Liberia cease all direct or indirect imports of Sierra Leone rough diamonds that were not controlled through the CO regime of the government of Sierra Leone, in conformity with Resolution 1306 (2000). The UNSC also demanded, in paragraph 16, that all diamond-exporting countries in West Africa establish CO schemes for the trade in rough diamonds similar to that adopted by the government of Sierra Leone.

The UNSC sanctions on Liberian diamonds and the establishment of the CO scheme that effectively ended the rebels' diamond trade led to the signing of the *Abuja Ceasefire Agreement*. This agreement was signed in November of 2001 between the government of Sierra Leone and the RUF, and spawned from the failed *Lomé Peace Agreement* of 1999.²¹ Both parties showed a willingness to abide by the *Abuja Ceasefire Agreement* and met again in Abuja on 2 May 2002 to further discuss the ceasefire protocols. At this meeting, the RUF agreed, among other things, to the disarmament of combatants, the return of weapons seized from captured UN peacekeepers, the release of all abductees and the transformation of the RUF into a legitimate political party. The government agreed for its part to let the rebels establish a political presence in Freetown.

The *Abuja Ceasefire Agreement* had a positive impact on Sierra Leone diamond exports, which rose by over 150 percent to \$26 million in 2001.²² The Sierra Leone Minister of Mineral Resources, Mohammed Deen, predicted that annual Sierra Leone diamond exports would eventually exceed \$30 million, or 30,000 carats. With the apparent end of the Sierra Leone civil war and the recovery of the country's diamond industry, it was expected that the socio-economic conditions in post-war Sierra Leone would improve considerably. According to Minister Deen, 25

²¹ The 1999 Lomé Peace Agreement between RUF and the government of Sierra Leone collapsed in May 2000 when RUF rebels, after refusing to disarm and to demobilize, capture 500 UN peacekeepers in the region.

²² See Rapaport (2002).

percent of the funds from Sierra Leone's diamond mining would be spent directly on the people of Sierra Leone through the provision of social services and the development of rural areas.

After a six-month review of Liberian compliance with the sanctions, the UNSC, in Resolution 1408 of 6 May 2002, voted unanimously to extend the embargo against Liberian diamonds. The UNSC decided to keep in place the measures imposed by paragraphs 5 to 7 of Resolution 1343 (2001) for a further period of one year, citing the Liberian government's non-compliance with UN demands stated in paragraphs 2(a) to (d) of the same Resolution. A subsequent review of Liberian compliance with the UN sanctions in 2003, prompted the UNSC to adopt Resolution 1478 on 6 May 2003 in which the UNSC decided once again to extend sanctions against Liberia until 7 May 2004, once again citing Liberia's non-compliance. However, rough diamonds controlled by the government of Liberia through the CO regime were exempt from the measures imposed by paragraph 6 of Resolution 1343 (2001). The UNSC panel of experts will continue to monitor Liberian compliance with the sanctions for as long as they deem necessary.

IV. The Democratic Republic of the Congo

The Congolese civil war of the post-Mobutu era, which started in August 1998 and ended in 2002, caused between 3 to 3.5 million deaths, over 500,000 refugees and some 2 million internally displaced people.²³ Besides the loss of life and the displacement of people, the DRC's war also plunged the country into poverty.²⁴ In 2001, amid a wealth of natural resources and diamond revenues, the DRC nonetheless ranked 155 out of 173 countries on the UNDP Human Development Index.

As in Angola and Sierra Leone, the civil war in the DRC was fuelled by revenues from the illicit trade in diamonds and other minerals such as gold and coltan. In fact, the strategic control of the mineral rich areas in the DRC was the key driving force in the conflict and consequently critical to a lasting negotiated peace settlement. Among all the natural resources traded during the war, diamonds generated most of the revenues for the different rebel factions that fought against the country's legitimate government. The use of diamonds for financing the war was not only done by the rebels but also by the legitimate government of the DRC in its fight against the rebels. According to a 2001 UNSC panel of experts report on the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of the Congo, the DRC government, in its efforts to defend its territory and secure the supply of weapons, signed mining contracts worth several millions of US dollars with different countries including Zimbabwe, China and South Korea.²⁵

The war for control of mineral-rich areas in the DRC was fought on two main fronts: (1) between the government (in alliance with Zimbabwe, Angola and Namibia, who pulled its troops out of the DRC in 2000) and the rebels (joined by their Ugandan and Rwandan allies); and (2) between the two rebel movements (the RCD-Goma with its Rwandan allies and the RCD-ML with its Ugandan allies). For instance, RCD-Goma and RCD-ML initiated attacks against one another's positions in eastern Congo in order to conquer additional mineral-rich areas, as the need for

²³ OCHA and IRIN (2002a).

²⁴ For more on the economic effects of the Congo War, see Koyame and Clark (2002).

²⁵ See UNSC (2001b) 167, 168 and 170.

additional funding for the purchase of weapons became prominent. Thus, the vicious circle of war and natural resource exploitation continued as the fight for control of mineral-rich areas went on.

The same 2001 UNSC report mentioned that some of the major battles between the government of the DRC and the RCD-Goma/Rwanda alliance were fought in areas of major economic importance, namely the cobalt and copper-rich area of Katanga and diamond-rich area of Mbuji Mayi. On 18 November 2000 for instance, RCD-Goma and its Rwanda allied troops stationed in Kisangani attacked and took control of positions belonging to the MLC in Bengamisa, an area with an abundance of diamonds. Similarly, on 31 December 2000, RCD-Goma and its allies launched an attack and captured RCD-ML positions in Kandole, another area renowned for its diamond deposits.²⁶

The proceeds from the exploitation of the DRC's natural resources were vital to the continued presence of rebels and their allies on that country's soil. Indeed, most of the countries involved in the conflict did not have adequate funds in their defense budgets to support their military presence. Consequently, they funded their activities with monies generated from the sale of minerals extracted from the DRC. According to the UNSC, President Kagame of Rwanda described the conflict in the DRC as "a self-financing war." In fact, the Rwandan Patriotic Army ("RPA") funded its war in eastern Congo through, among other things, taxes on diamonds paid by several "diamond counters" to the DRC desk put in place by Rwanda in the eastern part of the DRC and through direct uptake by the soldiers from the land.

The DRC desk received on average about \$200,000 per month from a diamond counter with a monthly turnover of \$4 million. In addition, there was a mandatory 5 percent tax paid to the DRC desk by every diamond dealer seeking to purchase diamonds in eastern Congo. From 1998 to 2000, the UNSC believed that the DRC desk received about \$4 million as direct payment from diamond-mining licenses in the areas under its control. However, after July 2000, the RCD-Goma claimed its share of the diamond revenues and received 50 percent of the take. Thus, rather than paying the monthly \$200,000 to the RPA at the DRC desk, large diamond counters paid \$100,000 to RPA and \$100,000 to the RCD-Goma authority.²⁷ Such revenues were substantial enough for the latter and its Rwandan ally to sustain the war and their control of eastern Congo.

Uganda, however, funded its presence in the DRC mainly through the re-exportation economy, that is, the repackaging and exporting of natural resources extracted from the DRC as Ugandan natural resources. According to the UNSC, the re-exportation economy played an important role in improving Uganda's GDP and in financing its war in the DRC by increasing the Ugandan defense budget. The World Bank has in fact hailed the Ugandan economic performance as a success story under its structural adjustment program knowing full well that the so called performance was – especially during 1998 to 2000 period – driven by the illegal exploitation and trade of the DRC's diamonds and other natural resources. The UNSC panel of experts also reported that internal notes exchanged between World Bank staff clearly indicated that they were aware of the discrepancy between Uganda's export levels of

²⁶ See UNSC (2001b) 173(c) and 178.

²⁷ See UNSC (2001b) 127 and 128.

gold and diamonds and production capabilities. However, the World Bank decided to look the other way and never to question the increasing exports.²⁸

While the official Ugandan export statistics did not properly reflect the extent of the re-export economy, information collected by countries importing diamonds from Uganda present a clearer picture. For instance, data from the HRD in Belgium show that Uganda, which produces no diamonds, had been exporting large quantities of rough diamonds since its occupation of eastern Congo. According to the HRD, Uganda rough diamond exports increased from 1511.34 carats in 1997 to 11303.86 carats in 1998, with another 11024.46 carats exported in 1999 and a further 9387.51 carats in 2000. These exports translated into \$1,440,000 in 1998, \$1,813,500 in 1999 and \$1,263,385 in 2000.²⁹

Like in Uganda, the official statistics published by Rwandan authorities did not show the full extent of Rwanda's illegal exploitation of the DRC's natural resources. However, data from the World Trade Organization, the HRD and Belgian authorities consistently showed that Rwanda, which like Uganda does not produce diamonds, started to export diamonds in 1996 when it was granted mineral concessions by the late DRC President Laurent-Désiré Kabila. The exploitation of the DRC's diamonds by Rwanda expanded after its 1998 occupation of south-eastern Congo. Indeed, data from HRD showed that Rwanda exported about 13,060.39 carats of rough diamonds in 1997, 166.07 carats in 1998, 2,500.83 carats in 1999 and 30,491.22 carats in 2000 with values of \$720,425 in 1997, \$16,606 in 1998, \$439,347 in 1999 and \$1,788,036.³⁰

The above statistics corroborate the fact that Uganda's and Rwanda's exploitation of the DRC's natural resources started in 1996, when those two countries helped then President Kabila oust Mobutu from power. Thus, as the leader of the AFDL, President Kabila created a precedent in legitimizing otherwise illegal operations by granting mineral concessions to his former allies (Rwanda and Uganda) during his advance on Kinshasa, even though he did not have the authority to do so. The illegal distribution of mineral concessions that started under President Kabila survived his death, however, as all armed groups in the occupied regions decided to do the same.

The UNSC panel of experts also indicated that Uganda and Rwanda exported more diamonds than was ever captured by international data. This was once again due to the loose recording system of diamond-trading companies, which considered the last country from which diamonds were purchased to be the country of origin. Thus, diamonds mined in any country could be repackaged and sold by another country with the latter being registered as the country of origin. Consequently, a rough diamond's country of origin was not necessarily the one mentioned in the statistics.

The significant role (whether active or passive) played by private individuals and companies, neighbouring countries and diamond-trading countries in the illicit exploitation of the DRC's natural resources and in the continuation of the war should not be neglected. According to the UNSC, Sabena Cargo and SDV of the Bollore group were among the key companies in the illegal transportation of the DRC's natural resources. Some companies were directly involved in the war by trading arms for natural resources and others facilitated access to financial resources used in the

²⁸See UNSC (2001b) 188 and 189.

²⁹ *Ibid* 98 and Table 2.

³⁰ See UNSC (2001b) at para. 104 and Table 5.

purchase of weapons. Companies trading minerals in the DRC were setting up networks for illegal activities in the country. Among all the companies, Trinity and Victoria were most involved in the illicit acquisition of the DRC's natural resources.³¹

African countries with seaports served as hubs for the export of the DRC's natural resources. The United Republic of Tanzania, for instance, was used as a transit country in the illegal diamond trade. The UNSC reported that, gold and diamonds belonging to RCD-Goma were shipped via Dar es Salaam, for sale on the international market. The shipments were made using counterfeit documents as though they had been issued and approved by the legitimate government of the DRC. Once in Tanzania, diamond shipments were held at the Bank of Tanzania before being forwarded to Belgium, the Netherlands and South Africa. RCD-Goma's representatives in Dar es Salaam then exchanged diamonds and gold for cash, foodstuffs, armaments and medicines to support the continuation of the war.³² The port of Mombasa in Kenya, which plays a very significant role in the transit trade in the Great Lakes region, was most probably also used as a way station for illicit diamonds originating from the DRC.

Likewise, neighbouring countries with no seaports were used as transit points in the smuggling of the DRC's diamonds and other minerals. It was estimated that a third of the DRC's rough diamond production, priced at \$300 million a year, was smuggled to the Central African Republic and the Republic of the Congo (Congo-Brazzaville) because of lower export duties in these countries.³³ A significant portion of these diamonds ended up in South Africa and were then sold to major diamond trading centres in Belgium, the Netherlands, Israel and the United Kingdom.

The UNSC also indicated that some embassy personnel and cooperation agencies from developed countries had directly or indirectly facilitated the purchase of illegal minerals in the DRC. In addition, bilateral donors and multilateral donors to Rwanda and Uganda had also, through their financial assistance, indirectly supported the war efforts of these two countries in the DRC. Some of the main bilateral donors for Rwanda and Uganda included such countries as Great Britain, Northern Ireland, Denmark, Germany and the United States. Financial aid from these donors, while legitimate, provided Rwanda and Uganda with additional resources that were probably used to finance their activities in the DRC. The balance of payments for Rwanda showed that Rwandan budget support more than doubled between 1997 and 1999, rising from \$21.6 million to \$51.5 million.³⁴

In view of the illegal exploitation of the DRC's natural resources by Rwanda and Uganda, the UNSC panel of experts recommended that the UN impose an immediate embargo on the import or export of diamonds from these two countries along with neighbouring Burundi. The embargo was only expected to be temporary until further investigations could be concluded by the UNSC. In addition, the panel asked all countries to refrain from facilitating the import or export of minerals from or to these countries and to take necessary measures to ensure that companies registered in their territory did the same. Any country, company, or individual caught breaking the embargo was to be sanctioned. The UNSC also proposed an

³¹ See UNSC (2001b) 80.

³² *Ibid* at 191-194.

³³ See UNSC (2001d) 42.

³⁴ See UNSC (2001b) 185.

immediate embargo on the supply of weapons and all military material to the rebel groups operating in the DRC.

In addition, the UNSC asked the World Bank and the IMF to suspend their support for those countries involved in the DRC war. The UNSC also proposed that UN Member States be asked to freeze the financial assets of the rebel movements and their leaders and of those companies or individuals who continued to be involved in the illegal exploitation of the DRC's natural resources. From the legitimate government of the DRC, the UNSC asked for the liberalization of the diamond trade in order to curtail the flow of illegal diamonds. Thus, the government of the DRC, with the assistance of the World Bank and the World Diamond Council, drafted a new mining code that was expected to remedy the problem of heavy taxes levied on diamond exports and help curb the illicit trade and smuggling of diamonds.

The UNSC also called upon all diamond dealers conducting business in areas controlled by foreign forces to immediately stop doing so or else face discipline from the World Diamond Council. Furthermore, a certification scheme similar to the one adopted in Sierra Leone was to be established in the DRC and all other diamond-exporting countries in the region. Major trading centres were asked to adopt a common recording and public documentation system for the importation of rough diamonds that clearly identified the country of origin. Thus, all countries who imported rough diamonds were required to use a "rough diamond control" system whether they belonged to a free trade zone or not. In addition, each diamond-exporting country had to compile an annual production report to be submitted to the World Diamond Council or to the certification body that would emerge from the Kimberley Process.³⁵

In an addendum to its final report on the illegal exploitation of the DRC's natural resources, the UNSC panel of experts reiterated its concern regarding the role played by the illicit diamond trade in the continuation of conflicts in Africa in general and the DRC in particular. The panel stated that:

Owing to the size of the industry and the relatively stable price of diamonds, it is now an established fact that diamonds have had a significant effect on conflicts in Africa. In Angola and Sierra Leone, "conflict diamonds" mined in rebel-held areas have served as a motivation for and a means by which some of the longest and bloodiest civil wars in Africa have been and are still being fought. The Democratic Republic of the Congo is not an exception.³⁶

The conflict in the DRC continued at a lower level of intensity as foreign forces and the various armed groups focused on the exploitation of resources. Sporadic conflict arose when one rebel group – for the purpose of getting access to more resources – tried to expand the area under its control. Thus, there was an implicit ceasefire on the front lines as each armed group protected their respective territory and continued their illicit exploitation of the DRC's resources. Foreign troops – both government and rebel allies – had no incentive to leave the DRC since they were extracting the maximum commercial and material benefits from the conflict. Consequently, the UNSC demanded that foreign troops withdraw from the DRC so

³⁵ For more on the Kimberley Process see Section VI.

³⁶ UNSC (2001d) 36.

that a successful cease-fire could be achieved and the rebuilding of the country's state institutions could begin. Currently the DRC is governed by a transitional government, which plans to organize general elections in 2005.

V. The Demand Side of Diamonds

In 1998, the international diamond industry produced close to 115 million carats of rough diamonds worth about \$6.7 billion. These rough diamonds were converted into 67.1 million pieces of jewellery with a market value of some \$50 billion.³⁷ For the past 60 years, De Beers and its Diamond Trading Company (DTC) – formerly called the Central Selling Organization (CSO) – has controlled the international diamond trade. According to Global Witness, De Beers was sorting, valuing and selling about 80 percent of the world's diamond production in 1996. Even though De Beers and its trading company have officially pulled out from all conflict zones in an effort to steer clear of blood diamonds, De Beers still controls some 65% of the international diamond trade.³⁸

Taking advantage of the withdrawal of De Beers from these conflict areas, a well-organized network of Israelis was established by Mr. Gertler in the DRC, Lev Levie in Angola and Shmuel Shnitzer in Sierra Leone. The network operations involved exchanging conflict diamonds for money, weapons and military training. The exchanged diamonds were then sent to Tel Aviv using airplanes piloted by former Israeli Air Force pilots. Once in Israel, the diamonds were cut and sold at the Ramat Gan Diamond Centre. Consequently, in 2001, the UNSC requested that the UN take measures to dismantle the Israeli network and to impose sanctions in order to curtail the trade in conflict diamonds.³⁹

The demand in the diamond market is indisputably related to the conditions on the jewellery markets in Europe and North America, especially in the United States. Together, these consumer markets buy about 65 percent of diamond jewellery produced worldwide each year. According to the UNSC, \$3.12 billion of polished diamonds under 0.5 carat and \$8.134 billion of polished diamonds over 0.5 carat were imported into the US in the year 2000.⁴⁰ The demand for polished diamonds on the US jewellery market was one of the main elements that fuelled the sale of rough diamonds. Consequently, one would assume that a decline in demand for diamond jewellery in the US would inextricably lead to a fall in the demand and the price of rough diamonds around the world.

In fact, the economic slowdown in the US between the last quarter of 2000 and the last quarter of 2001 resulted in a fall in demand for diamond jewellery in the US and a severe recession in rough diamond trading. According to the UNSC, diamond dealers in Antwerp reported a fall in rough diamond prices and an 11 percent decrease in their diamond exports for the first six months of 2001. In addition, De Beers reported a decline in the sale of retail diamond jewellery during the first half of 2001, with an approximately 20 percent decline in diamond imports into the US.⁴¹ The slowdown in diamond trading and the fall in the price of rough diamonds tend, on the other hand, to encourage the demand for smuggled diamonds

³⁷ See Smillie et al. (2000).

³⁸ See Global Witness (1998).

³⁹ See UNSC (2001d) 69.

⁴⁰ See UNSC (2001c) 172.

⁴¹ See UNSC (2001c) 173.

because of lower profit margins. Paying export duties of about 4 percent in the DRC and 6 percent in Angola would eat up the already meager margins enjoyed by traders, thus, they might prefer to smuggle diamonds rather than export them legally.

Besides the US, China is another country with an increasing demand for diamond jewellery. The city of Shanghai has been labelled as one of the fastest growing diamond jewellery markets in the world with 40 percent annual growth over four consecutive years. The new Shanghai Diamond Exchange, a nationally recognized centre approved by the State Council, has over 100 companies selling platinum-based pieces with diamond insets. The demand for diamond inset pieces of jewellery by the people of Shanghai exceeded RMB 600 million or HK\$558 million in 2001.⁴² This represents only one-fifth of China's diamond consumption, however. Surveys also show that a new generation of Chinese women is no longer satisfied with only one diamond but looks to purchase several pieces for special occasions such as graduations or births, as a hedge against inflation, or simply as a fashion statement. The speedy growth in demand for diamond jewellery can only encourage more production of rough diamonds and probably more conflict in Sub-Saharan Africa unless a world wide-diamond CO system is established and implemented in all countries involved in diamond trade.

Moreover, according to a *Washington Post* article of 2 November 2001, there is evidence that Osama bin Laden and his al Qaeda operatives used the rough diamond trade to finance their terrorist activities.⁴³ The same article mentioned that, according to US and European intelligence officials, al Qaeda raised millions of dollars between 1999 and 2001 in the trade of conflict diamonds mined by RUF rebels in Sierra Leone. The al Qaeda network bought gems from the RUF at below-market prices and sold them for large profits in Europe. The approximate amount of money made by al Qaeda from its diamond dealings with the RUF has not been determined, but it is believed to be in the millions of US dollars. Al Qaeda did not have operatives only in Sierra Leone but also in Kenya, Tanzania and Liberia, where they traded in rough diamonds and high value gemstones.

An August 2004 article by Ketan Tanna mentioned the arrest of Ahmed Khalfan Ghailani, a high level al Qaeda operative from Tanzania, who was suspected of being involved in the trading of conflict diamonds and of running a \$20 million financing operation trading illegal conflict diamonds in the Liberian Capital of Monrovia.⁴⁴

VI. The Kimberly Process

The Kimberley Process – a series of intergovernmental meetings that focus on the issue of conflict diamonds – was initiated in May 2000 by the government of South Africa as a result of several consumer campaigns against the trade in conflict diamonds. The government of South Africa was concerned that these campaigns, while targeting conflict diamonds, might damage the legitimate diamond trade. One key campaign entitled “Fatal Transaction” was launched on 3 October 1999 by five human rights organizations: Global Witness of the United Kingdom, Medico

⁴² See Hong Kong Trade Development Council (2002).

⁴³ See Douglas (2001).

⁴⁴ See Tanna (2004).

International of Germany, Intermon of Spain, the Netherlands Institute for Southern Africa and Novib of the Netherlands.⁴⁵ The Fatal Transaction campaign was directed at the sale of diamonds originating from areas controlled by forces opposed to elected and internationally recognized governments and from countries having any connection with those rebel forces. The campaign's focus was on the right of consumers to know whether their diamonds had financed the acquisition of weapons for rebel armies, thus contributing to countless deaths throughout Africa.

The Fatal Transaction campaign also intended to get the diamond industry to confront the devastating effects that its inefficient diamond control systems had had on the African people and the need for an efficient system of control to make certain that traded diamonds were not conflict diamonds. Diamond control systems at the time lacked the capacity to fully identify the embargoed diamonds because of, among other things, the existence of large numbers of middlemen and transit-trading centres. The longer the chain of middlemen, the more difficult it is to track the country of origin of a diamond parcel. Identifying illicit trading and finding evidence of a violation of the UN embargo on diamonds from Angola, the DRC and Sierra Leone was an international problem that required an international approach.

Since conflict diamonds represented only 4% of global diamond production, diamond producing and trading countries were concerned that the consumer campaign could inflict damage to the diamond industry as a whole unless it took into account the positive effects that the diamond trade had had on the economies of legitimate diamond producing countries. Indeed, a number of countries depended heavily on the legitimate diamond industry for their economic and social development. For instance, the diamond trade was a large source of revenue and employment in countries such as Namibia, South Africa, India and Botswana. An effective consumer campaign had to consider how many lives these revenues and jobs were worth. Speaking in November 1999, De Beers Chairman, Nicky Oppenheimer said:

Damage to the diamond market will not on its own deprive the warlords of their treasuries, but it will kill prosperity and encourage poverty in other well regulated African countries and in the cutting centres of India and around the world... Indeed, damage the market and you undermine orderly mining regimes and ensure instead that there will be more Angolas, more Congos and more Sierra Leones.⁴⁶

Nelson Mandela, the former president of South Africa, was also concerned that an international campaign might damage the diamond industry if it called for a general boycott. He believed that it was better for the diamond industry to take the initiative of working toward a progressive stance on human rights issues rather than boycotts being instituted. A positive consumer campaign had to focus on helping the industry take responsibility for its actions with regard to conflict diamonds, thus improving it and not damaging it. These concerns led to the government of South Africa's initiative on the first Kimberley Process meeting in 2000.

The first intergovernmental meeting on conflict diamonds was held in May 2000 in Kimberley, South Africa. The Kimberley Process was expected to result in a

⁴⁵ See Global Witness (2000).

⁴⁶ See Oppenheimer (1999).

world-wide certificate of origin for rough diamonds that would be adopted by all diamond-trading countries. At this Kimberley meeting, representatives of different governments, along with diamond industry and NGO representatives, worked toward an international agreement designed to eliminate the illicit trade in rough diamonds through the implementation of a worldwide certificate of origin system. The Global Witness report entitled "Conflict Diamonds: Possibilities for the Identification, Certification and Control of Diamonds", was at the centre of discussion at the Kimberley meeting.⁴⁷ The report pointed out that no peace would be sustainable in Sub-Saharan Africa until the countries concerned and the international community addressed the problems related to the mining and selling of conflict diamonds.

The Global Witness report also highlighted some of the realistic and enforceable solutions for controlling the flow of conflict diamonds on international diamond markets. One of the solutions suggested in the report was the implementation of a global diamond certification and verification system that would be enforced in any country that exports, imports, mines, or works on diamonds in any shape or form. The report also suggested that the monitoring of the global diamond certification and verification system be conducted by an independent diamond verification organization.

There were several Kimberley Process meetings held subsequently in Luanda, Windhoek, London and Moscow. At the London meeting in September 2001, an agreement was reached, subject to final endorsement, on a draft of the key elements that would shape the foundation of an international certification scheme, including the need for reliable controls and procedures, useful information gathering and honest monitoring and oversight.

The Kimberley Process reported to the UN General Assembly at its fifty-sixth session on the progress achieved. The UN commended the valuable efforts made by those involved in the Kimberley Process and in developing an international regulatory system that could prevent conflict diamonds from being traded through legitimate industry channels. Around the same time, members of the Southern African Development Community ("SADC") discussed the issue of conflict diamonds at their meeting on 29 June 2001 in Luanda and reaffirmed their commitment to supporting the Kimberley Process by endorsing it.

Finally after numerous meetings and negotiations, a final resolution on an international diamond certification scheme was adopted by 50 nations, including the US, on 5 November 2002 in Interlaken. Thereafter, the Kimberley Process Certification Scheme was officially launched on 1 January 2003. The UNSC, through Resolution 1459 (2003), strongly supported the Kimberley Process Certification Scheme for rough diamonds and welcomed its adoption as a valuable contribution against the trade in conflict diamonds.

The European Union also supported and adopted an international certification Scheme for trade in rough diamonds into the Euro Zone. The certification scheme would serve as an export and import control regime giving diamond producers control over the transportation of rough diamonds from the mines to points of export. Each diamond shipment would be sealed in a tamper-resistant container and would be accompanied by a Kimberley Process certificate.

⁴⁷ See Global Witness (2000).

Importing countries within the Euro Zone would ban diamonds not accompanied by the obligatory certificate.

VII. The Clean Diamond Trade Act

The *Clean Diamond Trade Act* was the product of several hearings held by the US House of Representatives on the issue of conflict diamonds. Besides Congressional hearings, there had been different rallies aimed at educating consumers about the atrocities financed by the trade in conflict diamonds in countries like Sierra Leone, Angola and the DRC. The rallies, organized by NGOs such as Amnesty International, Physicians for Human Rights, World Vision and others, were backed by Congressman Tony P. Hall (D-Ohio).

In May 2000, the House Committee on International Relations (Subcommittee on Africa) held hearings for the first time on the issue of conflict diamonds. During the hearings, De Beers, Eli Haas of the Diamond Dealers Club along with Global Witness and other NGOs testified on the conflict diamonds issue and what needed to be done to end the flow of such diamonds. The diamond industry was called upon to examine its current trading systems and to come up with a system that would help curb the trade in conflict diamonds. Global Witness called for a system of control that would be able to determine the source of diamonds and thereby assist in preventing the trade of illicit diamonds.

In September 2000, the House Committee on Ways and Means (Subcommittee on Trade) also held hearings on the African diamond trade. The testimonies during these hearings focused on the options that were available for an efficient curtailment of the conflict diamond trade without negatively affecting legitimate diamond commerce. One of the options proposed was the development of technology that could help determine the country origin of a cut and polished diamond.

Different options were also discussed at the World Diamond 29th Congress in Belgium in July 2000. During this gathering, which is held every two years, delegates from affiliated exchanges discussed the issues facing the industry. The July 2000 Congress, which was sponsored by WFDB and IDMA, resulted in the creation of the World Diamond Council (WDC) and the passing of a resolution on conflict diamonds. The resolution contained different proposals aimed at monitoring the trade in diamonds. The US Congress resorted to the WFDB/IDMA proposed resolution when writing its bill on conflict diamonds.⁴⁸ This legislation, referred to as the *Clean Diamond Trade Act – HR 2722* was passed by the US House of Representatives on 28 November 2001.

The House version of the bill noted the suffering of Africans financed by the trade in conflict diamonds as well as the 6.5 million people driven from their homes and 3.7 million more killed, and declared the need for an efficient solution to the problem.⁴⁹ In addition, the bill required that all diamond imports to the US (rough, polished or jewellery) come from a “clean stream” or legitimate origin that had to be determined by a system of controls monitored by US agencies and a presidential advisory commission composed of human rights advocates and representatives of the diamond industry. Civil and criminal penalties were to be imposed on violators in

⁴⁸ For more information see WFDB and IDMA (2000).

⁴⁹ See United States House of Representatives (2001).

addition to the confiscation and forfeiture of any illegal imports. The bill also asked for the system of diamond origin controls to be transparent and subject to independent monitoring, insisting that legitimate diamond trading with cooperating countries not be hindered in the process.

On 18 March 2002, Senators Dick Durbin (D-Illinois), Mike DeWine (R-Ohio) and Russel Feingold (D-Wisconsin) introduced the *Clean Diamond Trade Act* ("the Act") to the Senate and on 25 April 2003, President George W. Bush signed the bill's final version into law.⁵⁰ The Act enabled the US to implement procedures developed in the Interlaken Declaration on the Kimberley Process Certification Scheme for rough diamonds that excludes conflict diamonds from international trade, while promoting legitimate trade. The Act also directed the President to implement regulations to carry out the Certification Scheme, that is, to prohibit the importation into or exportation from the US of any rough diamonds that had not complied with this scheme.

The Act also specified, among other things, that the Certification Scheme was an ongoing process that needed strengthening and that reliable and comparable data on the international trade in rough diamonds were essential to its effective implementation. Finally, the Act demanded that the President report yearly to Congress on the effectiveness of the system of diamond control, as well as on countries that were implementing it and those that were not. The Rough Diamond Export Mechanism, created under the auspices of the Diamond Manufacturers and Importers Association of America, is the Kimberley certificate issuing authority for rough diamonds exported from the United States.

VIII. Conclusion

This article examined the phenomenon of conflict diamonds by presenting some evidence as to how the illicit trade in conflict diamonds has funded and continues to fund civil war in Sub-Saharan Africa. Revenues from the diamond trade were used in countries like Angola, the DRC and Sierra Leone, to purchase weapons and other equipment for waging war. NGOs such as Global Witness, Partnership Africa Canada and other human right organizations have played a key role in informing the world of the devastating effects of the illicit diamond trade on the people of Africa. Likewise, the UNSC was instrumental in investigating the issue of conflict diamonds and in imposing embargoes where necessary.

The article also presented evidence on the struggle encountered by the UNSC and human rights organizations in their fight against the illicit trade in conflict diamonds. Indeed, most of the UNSC embargoes were not very successful in curtailing the trade in conflict diamonds because diamond-trading companies and individuals continued to deal in illicit diamonds in defiance of the UNSC resolutions. The inadequacy of tracking systems among countries to monitor the diamond trade made it difficult for the UN to identify non-compliant companies and individuals. Thus, the implementation and enforcement of a global diamond certification and verification system became necessary for any country that exported, imported, mined, or worked on diamonds in any shape or form. Representatives from different governments, along with diamond industry and NGO representatives worked,

⁵⁰ The final version of the Act is referred to as the *Clean Diamond Trade Act - HR 1584*. See United States Public Law 108-19 (2003).

through the Kimberley Process, toward the adoption of a worldwide certificate-of-origin system for diamonds that was expected to deter the illicit trade in conflict diamonds and prevent the fuelling of civil wars in Sub-Saharan Africa.

The adoption of the Kimberley Process Certification Scheme for rough diamonds on 5 November 2002 by the international community showed good faith on the part of those involved in the diamond trade. Having an international certification scheme for rough diamonds is just the beginning, however, since its implementation and success demand a great commitment from the international community. Furthermore, if the international certification scheme for rough diamonds prove itself successful in preventing the trade in conflict diamonds, it could conceivably be customized for the trade in other natural resources such as petroleum, coltan and gold – resources whose revenues have also helped finance conflict in Africa.

Indeed, civil wars in Angola, the DRC and Sierra Leone were not only fuelled by revenues from diamond sales but also by revenues from the sale of other minerals and valuable natural resources. Minerals such as coltan, gold and products like coffee and timber were used by rebel forces in the DRC, in addition to diamonds, as a means of revenue in the continuation of the war. The same can be said of the rebel movements in Angola and Sierra Leone where revenues from natural resources other than diamonds were used in support of their war efforts. Therefore, where there are conflict diamonds, there is likely also conflict petroleum, timber, coltan, gold and so forth. Consequently, there may still be a place for the UNSC to investigate the extent to which other natural resources have contributed, or continue to contribute, to African civil strife and to consider imposing embargoes, where necessary, as has been the case with timber from Sierra Leone and Liberia.

The policy implication of this paper is that UN resolutions alone are not sufficient for the UN to achieve its goals. The support of the UN by those countries most directly involved in the matter and by the international community as a whole is crucial to the success of UN policies. UN resolutions have been often ignored in the past and will continue to be ignored unless states realize their critical role in resolving issues with higher national or international repercussions. It is to be hoped that African governments and organizations such as the African Union, SADC and ECOWAS will take the lead in encouraging their Member States to not only comply with the letter of UNSC resolutions, but also to put in place the additional mechanisms required to ensure that natural resources are used equitably for the benefit of African populations rather than as catalysts for the commission of gross human and humanitarian law violations.

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