



To What Extent Can NGOs Still Play a Role in the Kimberley Process?

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To What Extent Can NGOs Still Play a Role in the Kimberley Process?

Aurélie Dussenne

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Abstract

The Kimberley Process is a multi-stakeholder initiative created in 2003 to address the issue of conflict diamonds, also called blood diamonds. This study examines the extent to which NGOs can still play a role in the Kimberley Process. In the early 2000s, NGOs played a significant part in raising awareness about conflict diamonds; they pushed governments and the diamond industry to take action. Fifteen years later, the situation is very different. Several NGOs have decided to leave the initiative, and the Civil Society Coalition decided to boycott the Kimberley Process in 2011 and 2016. This graduate thesis looks at the internal and external factors to understand the reasons why the situation has deteriorated over the past few years and the extent to which it constrains the ability of the Civil Society Coalition to act as expert, legitimizer and watchdog. This analysis is based on the examination of the official documents of the Kimberley Process, interviews with NGOs, and reports of Global Witness, Partnership Africa Canada and Human Rights Watch. It finds that the departure of Global Witness and other experienced international NGOs has undermined the expertise of the Civil Society Coalition. Most current members of the Civil Society Coalition face a lack of financial resources and do not have a strong background in conflict diamonds, which prevents them from collecting reliable and detailed information. This, in turn, contributes to discrediting the Civil Society Coalition in terms of how they are perceived by the other parties involved in the Kimberley Process and prevents them from being an active watchdog in the industry. If the Civil Society Coalition wants to play a role in the Kimberley Process, it will need to change the mix of NGOs included in the certification scheme and collaborate with experienced NGOs that can enhance its expertise.

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Introduction

The last decades have seen increased collaboration between governments, NGOs, and the diamond industry to address global issues. This collaboration can take several forms. The private and public sectors can work together to provide, or improve, a public asset or service, such as access to water for all, but they can also work to address social issues through regulations and/or improved practices. Partnerships between two or more actors are more and more popular; they are deemed to have the potential to deliver sustainable development objectives. The nature of those partnerships, however, is sometimes controversial because the financial interests of the private sector could interfere with the development of the project.

The Kimberley Process is a tripartite initiative created in 2003 to address the issue of conflict diamonds, also called blood diamonds. Those diamonds were said to finance the activities of rebels in several African countries, including Angola, Sierra Leone, Liberia, and the Democratic Republic of Congo. The United Nations imposed an embargo on Angolan diamonds, but it was not sufficient to prevent rebels from looting diamonds in that country. NGOs wrote several reports, which were largely publicized, to denounce this situation and put pressure on key actors. A few months later, negotiations between governments, the diamond industry, and NGOs started. In less than three years they managed to reach an agreement and successfully establish a voluntary certification scheme that sought to prevent conflict diamonds from entering international trade.

Initially, NGOs, in particular Global Witness and Partnership Africa Canada, played a significant role in raising awareness about conflict diamonds and developing the

Kimberley Process in the late 1990s/early 2000s. After the official establishment of the certification scheme, they were granted an observer status and could participate in the day-to-day operations, working groups, and official meetings. They could thus watchdog the diamond industry and other key actors both from within and outside the Kimberley Process. The inclusion of NGOs in the certification scheme was a way to legitimize the initiative.

However, the situation has significantly changed since the beginning of the initiative. The relationship between the Civil Society Coalition and other participants of the Kimberley Process has deteriorated over the past few years. The Civil Society Coalition decided to boycott official meetings in 2011 and 2016 to show their dissatisfaction with regards to the evolution of the certification scheme. Moreover, some NGOs, including Global Witness, left the initiative and members of the Civil Society Coalition made several official statements condemning the decisions made by the participants of the Kimberley Process. This shows the widening gap between NGOs and participants within the certification scheme.

The aim of this graduate thesis is to analyze to what extent NGOs can still play an active role within the Kimberley Process. This research will be articulated around two main questions:

- What are the internal factors that can constrain or enhance the ability of NGOs to influence the decision-making of the Kimberley Process? Those internal factors include the decision-making of the multi-stakeholder initiative and the distribution of power, and the composition of the Civil Society Coalition.
- What are the external factors that have contributed to the deterioration of the relationship between the Civil Society Coalition and other participants? Those

external factors include the changes in the current context and the growing disagreement about the scope of the Kimberley Process.

The analysis of those internal and external factors will help determine whether NGOs can still play the role of legitimizer, expert, and watchdog within the Kimberley Process.

NGOs and researchers have focused on the efficiency of the Kimberley Process and its ability to break the link between diamonds and conflicts. Several researchers also have analyzed the role that NGOs played in raising public awareness and establishing the Kimberley Process. However, there exists, to my knowledge, no study on the reasons why the situation has deteriorated over the past few years and what it means for the future of the Kimberley Process. In fact, there is no in-depth analysis of the boycotts of 2011 and 2016. This graduate thesis is thus based on interviews with NGOs (current and previous members of the Civil Society Coalition), independent reports published by NGOs, and official documents and statements that are available on the official websites of the Kimberley Process, the World Diamond Council, and the participating NGOs.

During the writing of this graduate thesis, I faced four main limitations. First, there exists little information on the two boycotts of the Civil Society Coalition. On the one hand, there is no mention of those boycotts on the official website of the Kimberley Process. On the other hand, actors of the Kimberley Process, scholars, and journalists explain the motivations of the Civil Society Coalition, but there is, to my knowledge, no in-depth analysis of the impact of those boycotts and what it could mean for the Kimberley Process in the long term. Second, I had the chance to interview several NGOs that are current or previous members of the Civil Society Coalition, but I could not get any comment from participating countries. I sent more than 50 emails to the different focal points, but none of them would respond. Third, this graduate thesis looks at the role

that NGOs can play within the Kimberley Process, but it does not analyze in-depth the current problems linked to diamonds, including the human rights abuses in Zimbabwe and the criminal activities. Moreover, it does not go over the role of each stakeholder in the production chain. Fourth, the second boycott took place in 2016; we are not aware yet of all the implications that it can have on the future of the Kimberley Process and little to no information is available to the public.

This graduate thesis is organized as follows. Chapter I explains the link between diamonds and civil wars. Chapter II describes the creation of the Kimberley Process to understand the reasons why NGOs are included in the certification scheme. Chapter III goes over the internal structure of the Kimberley Process and the dynamic among the different actors. Chapter IV analyzes the current situation by looking at the two boycotts and the extent to which the Civil Society Coalition can play the role of expert, legitimizer, and watchdog in the Kimberley Process. Chapter V looks at whether the quality of the interactions between the members of the Kimberley Process can be improved and the impact that it could have on the survival of the scheme. The last section presents the conclusion of this graduate thesis.

Chapter I

Diamonds and Conflicts: a Literature Review

In the late 1990s, Global Witness and Partnership Africa Canada published detailed reports on the link between diamonds and rebels in Angola and Sierra Leone.¹ They made clear that revenues generated by the diamond industry were financing the activities of those independent groups. This chapter aims to understand the dynamics between diamonds and civil wars. It is divided into three sections: the first section will define the metaphor of the resource curse and the associated symptoms. The second section will describe the link between natural resources and civil wars by explaining the processes through which they can become a factor driving conflicts. The third section will look at the case of diamonds.

What is the Resource Curse?

In 1995, Sachs and Warner published a paper on the empirical relationship between abundant natural resources and economic growth. They came to the surprising conclusion that “economies with a high-ratio of natural resource exports to GDP in 1971 (the base year) tended to have low growth rates during the subsequent period 1971-89.”² This negative relationship between natural resources and economic growth is called the resource curse or the paradox of plenty. Their conclusions did not go unnoticed and a

¹ See Chapter II

² Sachs, J.D., & Warner, A.M. (1995). “Natural Resource Abundance and Economic Growth.” *Development Discussion Paper 517, Harvard Institute for International Development*

number of researchers started to analyze whether such a negative relationship really existed: for each example of the resource curse, there is a counter-example. While diamonds had a negative impact on the development of Sierra Leone, they foster economic growth in Botswana.³

Researchers highlighted that natural resources can create economic and political challenges. More specifically, they showed that natural resources could lead to lower rates of economic growth and economic stability,⁴ affect the type of regime and the achievement of good governance,⁵ and increase the onset, severity, and duration of conflicts.⁶ The metaphor of the resource curse encompasses each of these symptoms. Abundance of natural resources can lead to one or several of these economic and political challenges but it can also, most importantly, lead to none of these issues.

The quality of institutions was found to be the most important determinant. Mehlum, Moene and Torvik use a sample of 87 countries to quantify this phenomenon and come to the conclusion that the quality of political institutions can greatly influence the odds of a resource curse.⁷ If “economic and political institutions are capable of

³ The World Bank Group. (2015). “Botswana: Systemic Country Diagnostic.” Retrieved from <http://documents.worldbank.org/curated/en/489431468012950282/pdf/95304-REPLACEMENT-SCD-P150575-PUBLIC-Botswana-Systematic-Country-Diagnostic-Report.pdf>

⁴ Sachs, J.D., & Warner, A.M. (1995). “Natural Resource Abundance and Economic Growth.” *Development Discussion Paper 517, Harvard Institute for International Development*.

⁵ Ross, M. (2015). “What Have We Learned about the Resource Curse?” *The Annual Review of Political Science*, 18.

⁶ Collier, P., & Hoeffler, A. (1998). “On economic causes of civil war.” *Oxford Economic Papers*, 50(4), 563-573.

Collier P., & Hoeffler, A. (2000). “Greed and grievance in civil war.” *Washington, DC: World Bank*.

⁷ Mehlum, H., Moene, K., & Torvik, R. (2005). “Cursed by resources or institutions.” *The World Economy*, 29(8), 1117-1131.

successfully managing the sudden influx of income and wealth”⁸ that is linked to the discovery of natural resources, then the country is likely to benefit from it. There exist several explanations as to why the quality of institutions matters when it comes to the resource curse.

First, the discovery of natural resources represents a sudden change for a country: it can create new jobs, and it can represent an additional source of income for governments that can collect taxes on the profits linked to natural resources. Those two positive aspects can have negative consequences on the development of a country if not well managed by the government. The sudden exportation of natural resources can lead to a phenomenon called the “Dutch disease.” The increase in the export of natural resources represents a rapid influx of foreign currency, which makes the national currency stronger and makes any other types of export less competitive.⁹ Moreover, it represents a sudden influx of money for governments, the quality of fiscal institutions is thus extremely important because they determine the ability of a country to efficiently absorb the additional income. Murshed claims that resource booms are about revenues, which means that well-functioning fiscal institutions are crucial for revenue collection and the prevention of appropriative behaviors.¹⁰ In addition to the fiscal institutions, the quality of political institutions can influence the ability of governments to invest those additional incomes in the development of human capital and infrastructure. Moreover, Ross claims

⁸ Hendrix, C. S., & Noland M. (2014). “Confronting the Curse: The Economics and Geopolitics of Natural Resource Governance.” *Peterson Institute for International Economics, Washington*.

⁹ Ebrahimzadeh, C. (n.d.). “Dutch disease: wealth managed unwisely”. *International Monetary Fund website*. Retrieved from <http://www.imf.org/external/pubs/ft/fandd/basics/dutch.htm>

¹⁰ Murshed, S.M. (2003). “On natural resource abundance and underdevelopment.” *World Development Report 2003, Dynamic Development in a Sustainable World*.

that a sudden increase in incomes can increase corruption:

There is strong evidence that when a government gets more of its revenue from oil, minerals, and timbers, it is more likely to be corrupt. Part of this problem is due to the sheer volume of resource revenue: governments can only absorb, and effectively track, limited amount of money. Resource wealth often floods governments with more revenue than they can effectively manage. Another part of the problem comes from the volatility of resources revenues: the sudden ebb and flow of revenues tends to overwhelm normal budgeting procedures, and can weaken state institutions.¹¹

Moreover, Bhattacharyya and Hodler use a game-theoric model with a sample of 99 countries to quantify the impact of natural resources on corruption; they conclude that the higher the quality of democratic institutions, the lower the probability that natural resources will feed corruption.¹²

Second, natural resources can have an impact on the accountability of governments.¹³ The famous slogan “No taxation without representation” can help to understand why natural resources can decrease the accountability of governments. If a government has access to additional revenues that are associated with the discovery of natural resources, it can reduce the amount of taxes collected because it can count on alternative financial resources.¹⁴ Consequently, a government that does not rely on

¹¹ Ross, M. (2003). “Natural Resources and Civil War: An Overview.” *UCLA Department of Political Science*. Available from http://www.unepfi.org/fileadmin/documents/conflict/ross_2003.pdf. Retrieved October 9, 2016.

¹² Bhattacharyya, S., & Hodler, R. (2008). “Natural Resources, Democracy and Corruption.” *European Economic Review*, 54(4), 608-621.

¹³ Ross, M. (2015). “What Have We Learned about the Resource Curse?” *The Annual Review of Political Science*, 18.

¹⁴ I believe that if a government gains those additional income through taxing the corporations it will not have an impact on its accountability: it does not reduce the amount of taxes collected, and owners and employees can claim a right of representation because they pay taxes.

citizens to have access to financial resources may feel less accountable to them.¹⁵ This is the reason why some researchers believe that the sudden influx of income generated by natural resources can make governments less accountable to their people.¹⁶ In addition, Collier shows that the exploitation of natural assets can undermine accountability because it can reduce the efficacy of electoral accountability and lead to an increase in patronage activities.¹⁷

Third, natural resources can, under certain circumstances, have an impact on the onset and duration of civil conflicts. The link between natural resources, in particular diamonds, and civil conflicts is important when it comes to the Kimberley Process. This multi-stakeholder initiative was created to address one symptom of the resource curse, but it is important to highlight that not all diamond-producing countries have experienced issues linked to the abundance of natural resources. The next section will focus on the mechanisms through which natural resources can have an impact on civil conflicts.

The Resource Curse and Civil Wars

The link between natural resources and conflicts is particularly important when it comes to diamonds. Over the past two decades, researchers have analyzed the processes through which natural resources can influence the onset, duration, and severity of conflicts. They have highlighted two paths through which natural resources, including

¹⁵ Hendrix, C. S., & Noland M. (2014). "Confronting the Curse: The Economics and Geopolitics of Natural Resource Governance." *Peterson Institute for International Economics, Washington*.

¹⁶ Ross, M. (2003). *Natural Resources and Civil War: An Overview. UCLA Department of Political Science*. Available from http://www.unepfi.org/fileadmin/documents/conflict/ross_2003.pdf. Retrieved October 9, 2016.

¹⁷ Collier, P. (2010). "The Political Economy of Natural Resources." *Social Research: An International Quarterly*, 77(4), 1105-1132.

diamonds, can impact conflicts: motivation and opportunity.

Many scholars point to the motivation of rebels to explain the link between natural resources and civil wars. Collier and Hoeffler use the greed and grievance arguments to explain rebellion. The greed argument is based on predation; independent groups aim to get richer. The grievance argument is based on political, economic, or social inequality; independent groups start a rebellion because they seek justice.¹⁸ These two arguments can be applied to the case of natural resources. First, independent groups can start a conflict to have access to natural resources and to capture associated revenues. In fact, natural resources represent an important source of income, which can create incentives for primary commodity predation. Second, natural resources can increase grievances through two different means. On the one hand, it can alter the incentives of the states and increase grievances against the current state of affairs through corruption and reduced accountability, as seen in the previous section.¹⁹ On the other hand, the extraction of natural resources can have environmental and social costs for the population that lives nearby, “when these costs are concentrated in communities that do not reap a large proportion of the benefits, severe grievances may arise, particularly if the local community is distinct in ethnic or religious terms from the dominant elite.”²⁰

There is no consensus on whether the greed or grievance argument is the strongest at explaining the reasons why conflicts arise. Collier and Hoeffler undertake a statistical

¹⁸ Collier, P., & Hoeffler, A. (1998). “On economic causes of civil war.” *Oxford Economic Papers*, 50(4), 563-573.

¹⁹ Ross, M. (2003). Natural Resources and Civil War: An Overview. *UCLA Department of Political Science*. Retrieved from http://www.unepfi.org/fileadmin/documents/conflict/ross_2003.pdf.

²⁰ Hendrix, C. S., & Noland M. (2014). “Confronting the Curse: The Economics and Geopolitics of Natural Resource Governance.” *Peterson Institute for International Economics*, Washington.

analysis based on a dataset of conflicts that occurred between 1960 and 1999; they come to the conclusion that even if both theories are valid, the greed argument is more powerful and can better explain why natural resources can increase the onset of conflicts.²¹

However, Humphreys believes that the grievance argument is stronger at explaining the link between natural resources and the onset of conflicts. He says that the focus should be on “tackling the ways through which natural resources weaken state structures or induce grievances.”²² Ross emphasizes that even though natural resources can have an impact on both the risk of civil war onset and its duration, it will never be the only source of the conflict.²³ Lujala, Gleditsch and Gilmore use a new DIADATA data set to analyze the impact of natural resources. They find that natural resources do not generally affect the risk of conflict onset; it depends on the level of ethnic fractionalization and mainly affects ethnic wars.²⁴

In some cases, natural resources do not affect the motivation of rebels through greed or grievances, but represent an economic opportunity that can modify the incentives of independent groups to start/prolong conflict. Those groups are not motivated to appropriate money for their personal profit, but see in natural resources the way to finance their conflicts. In fact, it is extremely difficult to start or prolong a conflict without financial resources. Money is required to purchase weapons and food, pay for

²¹ Collier, P., & Hoeffler, A. (2000). “Greed and grievance in civil war.” *Washington, DC: World Bank*.

²² Humphreys, M. (2005). “Natural Resources, Conflict, and Conflict Resolution: Uncovering the Mechanisms.” *Conflict Resolution*, 49(4), 535.

²³ Ross, M. (2003). *Natural Resources and Civil War: An Overview. UCLA Department of Political Science*. Retrieved from http://www.unepfi.org/fileadmin/documents/conflict/ross_2003.pdf.

²⁴ Lujala, P., Gleditsch, N.P., & Gilmore, E. (2005). “A Diamond Curse? Civil War and a Lootable Resource.” *Conflict Resolution*, 49(4) 538-562.

transportation, and pay soldiers. If the extraction of natural resources can enhance the financial capabilities of independent groups, it can have an impact on the duration of the conflict because such groups would not be able to prolong war without financial capacities. This is called the feasibility mechanism.²⁵ If rebels have control over natural resources, it is easier for them to prolong war. This is the reason why Lujala, Gleditsch and Gilmore claim that both the motivation, whether greed or grievance, and opportunity, geographic or economic, matter.²⁶

The Case of Diamonds

The physical characteristics of natural resources can explain why some resources are more likely than others to represent an economic opportunity and modify the incentives of actors. If a resource is very valuable, and can be easily stored, transported, and sold, it is highly lootable and easier to smuggle. It is thus easier to have control over it and trade it illegally. In other words, it is easier to quickly realize large economic gains with diamonds than with forestry.²⁷ Le Billon,²⁸ and Basedau and Wegenast²⁹ make a further distinction: they each look at the concentration of the resource, which is defined as the technical characteristics of the resource, and the geographical location. The

²⁵ Humphreys, M. (2005). "Natural Resources, Conflict, and Conflict Resolution: Uncovering the Mechanisms." *Conflict Resolution*, 49(4), 535.

²⁶ Lujala, P., Gleditsch, N.P., & Gilmore, E. (2005). "A Diamond Curse? Civil War and a Lootable Resource." *Conflict Resolution*, 49(4) 538-562.

²⁷ Lujala, P., Gleditsch, N.P., & Gilmore, E. (2005). "A Diamond Curse? Civil War and a Lootable Resource." *Conflict Resolution*, 49(4) 538-562.

²⁸ Le Billon, P. (2001). "The political ecology of war: natural resources and armed conflicts." *Political Geography*, 20, 561-584.

²⁹ Basedau, M., & Wegenast, T. (2009). "Oil and Diamonds as Causes of Civil War in sub-Saharan Africa: Under what Conditions?" *Colombia Internacional*, 70, 35-59.

geographical location refers to whether the resource is at the periphery of the area of state control. If natural resources are in a remote area, the cost of control is higher, and consequently, the risk of appropriative behaviors by independent groups is higher.

Diamonds are highly concentrated, very valuable, and easily transportable, which means that this type of mineral has a high lootability and is at risk of being traded on the illegal market or being appropriated by independent groups. It represents a significant economic opportunity. However, not all types of diamonds have been used to finance violent activities.^{30, 31} It is thus important to further distinguish between kimberlite diamonds, which are extracted directly from volcanic pipes and have never been used by rebels, and alluvial diamonds, which are the result of natural erosive action and are brought to the surface across vast areas such as an ocean floor or along riverbeds.³² Those two types of deposits can be found in the same country, as is the case for example in Angola and Sierra Leone. The quality of institutions can thus not explain why rebels have never used kimberlite diamonds to enhance their financial capabilities in Angola and Sierra Leone.

I believe that differences in the extraction process can best explain why only alluvial diamonds have been linked to conflicts. The extraction of alluvial diamonds is based on artisanal mining techniques that requires low investments and little previous training. The intervention of the state or a large corporate is not required, and the

³⁰ Bieri, F. (2010). "From blood diamonds to the Kimberley Process: how NGOs cleaned up the global diamond industry." *Farnham, Surrey, England; Burlington, VT: Ashgate.*

³¹ Kawamoto, K. (2012). "Diamonds in war, diamonds for peace: diamond sector management and kimberlite mining in Sierra Leone." *High*

³² Bieri, F. (2010). "From blood diamonds to the Kimberley Process: how NGOs cleaned up the global diamond industry." *Farnham, Surrey, England; Burlington, VT: Ashgate.*

extraction of alluvial diamonds is often done in the informal sector. Moreover, alluvial deposits cover extended areas in remote parts of countries, which means that it is difficult to prevent other actors/groups from having access to the deposits and extracting the diamonds. Those two factors make it challenging for the state to control and regulate the production process.³³

The extraction of kimberlite diamonds is very different. First, extracting them from the pipe cannot be done by hand; it requires capital-intensive machinery,³⁴ which means that investments are higher than those for the extraction of alluvial diamonds. It thus depends on the involvement of an actor that has the funds to invest in the machinery; this is the reason why the kimberlite deposits are often owned by the state or big corporate actors. Consequently, the extraction is made in the formal sector and is thereby easier to control.³⁵

The extraction process of diamonds is thus very different in alluvial and kimberlite deposits. Even though both types of diamonds have the same technical concentration, they do not have the same level of appropriability. This can be explained neither by a difference in the legal and political contexts because both deposits can be located in the same country, nor by a difference in geographical appropriability because both deposits are in remote areas. I believe that this difference in appropriability comes from the ability of the state to control the production process and make the value chain accountable, which is directly influenced by the extraction technique. In fact, the extraction technique

³³ Goreux, L. (2001). "Conflict Diamonds." *Africa Region Working Paper Series*, 13.

³⁴ Bain & Company. (2011). *The Global Diamond Industry: Lifting the Veil of Mystery*. Bain & Company, Inc.

³⁵ Olsson, O. (2006). "Diamonds Are a Rebel's Best Friend." *World Economy*, 29(8), 1133-1150.

of kimberlite diamonds makes it easier for the state to control the production of diamonds: the state can either have control over the mine or can concentrate their focus on the big corporate actor that owns the mine. It is thus easier for the state to have control over the production of diamonds than if it was extracted by thousands of independent groups. Consequently, it is more difficult for rebels to appropriate kimberlite mines. The reverse is true for alluvial diamonds: it is more difficult for the state to control alluvial deposits or the actors that extract diamonds because the extraction is often made in the informal sector, without state intervention, which makes it easier for rebels to exert control. I believe that this can explain why only alluvial diamonds have been used to fund conflicts. .³⁶

The Kimberley Process was created to solve the issue of conflict diamonds. Breaking the link between diamonds and conflicts would address one symptom of the resource curse. However, other symptoms, such as corruption and the Dutch economy, could prevent countries from fully benefitting from the production of diamonds. Even though kimberlite diamonds have never been linked to any conflict, it is necessary to include them in the certification scheme. In fact, it would be extremely difficult to differentiate diamonds in relation to their production types, both nationally (when a country has both alluvial and kimberlite mines) and internationally. This could also lead to a phenomenon of adverse discrimination against countries that have alluvial diamond fields. It is important, however, to take into consideration the differences between

³⁶ It is important to remind, however, that not all alluvial diamonds are used to finance conflicts; the quality of institutions can prevent independent groups from appropriating resources. This is the case for Australia.

kimberlite and alluvial diamonds. Mechanisms need to be created to meet the specific needs of alluvial mining and to help countries to benefit from those diamond fields.

Chapter II

The Creation of the Kimberley Process

The Kimberley Process is a tripartite voluntary agreement that includes governments, civil society organizations, and the diamond industry. It is important to understand why and how this initiative was created to analyze the dynamics between the different actors. The first section of this chapter will describe the processes through which NGOs managed to increase public awareness about conflict diamonds and explain how the fear of a backlash pushed governments and the diamond industry to take action. The second section will discuss the negotiation process that began in 2000 in South Africa; it will document why a tripartite structure was chosen to address the issue of conflict diamonds.

The Blood Diamond Campaign and the Fear of a Backlash

The relationship between diamonds and conflicts started to become apparent in the late 1990s. More and more evidence gathered by NGOs and international organizations highlighted the ways that rebels were using diamonds to finance their activities. In 1998, the United Nations took the first step to solve that problem; it imposed an embargo on Angolan diamonds to prevent UNITA from selling its diamonds in the international market. However, this embargo was far from sufficient to address the issue of conflict diamonds. First, the measure did not have clear consequences in Angola, where diamonds

continued to be sold internationally and finance UNITA's activities.³⁷ Second, the problem of conflict diamonds did not only concern Angola. In fact, rebels were appropriating diamonds in other countries, including Sierra Leone, the Democratic Republic of Congo, and Liberia. The lack of measures in those countries meant that the international community was not threatening the financial capabilities of rebels and consequently was not addressing the issue of conflict diamonds globally.

A few months after the establishment of the embargo in 1998, Global Witness published a report on the link between diamonds and civil wars called "A Rough Trade: The Role of Companies and Governments in the Angolan Conflict."³⁸ It describes the processes through which diamonds can fuel conflicts by providing financial support to rebels. One year later, Partnership Africa Canada produced another report titled "The Heart of the Matter: Sierra Leone, Diamonds & Human Security."³⁹ Even though these organizations were not the first to highlight the issue of conflict diamonds, their reports attracted the attention of the media and marked the beginning of the campaign of NGOs, which played a significant role in establishing the Kimberley Process.⁴⁰ This campaign is often referred to as the Blood Diamond Campaign in literature. It is a term that encompasses all campaigns by NGOs on conflict diamonds that occurred between 1998

³⁷ Beffert, D., & Benner, T. (2005). Stemming the tide of conflict diamonds—the Kimberley Process. Part A: Looking for the white underbelly of the dragon. *Draft case study, Hertie School of Governance*.

³⁸ Global Witness. (1998). A rough trade: The role of companies and governments in the Angolan conflict. Retrieved from <https://www.globalwitness.org/en/archives/rough-trade/>

³⁹ Partnership Africa Canada. (2000). The heart of the matter: Sierra Leone, diamonds & human security. Retrieved from: <https://cryptome.org/kimberly/kimberly-016.pdf>. Consulted September 15, 2016.

⁴⁰ Bieri, F. (2009). The quest for regulating the global diamond trade. *Institut Catala Internacional per la Pau Barcelona*.

and 2003. Global Witness, Partnership Africa Canada, Amnesty International, and Fatal Transactions played a significant role in the development of the Blood Diamond Campaign; however, many more NGOs joined in the fight against conflict diamonds. More precisely, a network of more than 200 NGOs shared resources of time, money, and expertise to present and clarify the link between diamonds and conflicts to the public and push governments and the diamond industry to take action.⁴¹

In their book *Activists beyond Borders*, Sikkink and Keck describe the different approaches that can be used by networks to seek influence:

Information politics, or the ability to quickly and credibly generate politically usable information and move it to where it will have the most impact. Symbolic politics, or the ability to call upon symbols, actions, or stories that make sense of a situation for an audience that is frequently far away. Leverage politics, or the ability to call upon powerful actors to affect a situation where weaker members of a network are unlikely to have influence. Accountability politics, or the effort to hold powerful actors to their previously stated policies or principles.⁴²

In the case of conflict diamonds, the network of NGOs used three approaches to elevate the urgency of the issue and set the agenda. They used information politics to put pressure on the United Nations, symbolic politics to raise public awareness, and accountability politics to put pressure on the diamond industry and producing countries.

First, NGOs put pressures on the United Nations and the diamond industry to push them to take action. They published reports on the lack of effectiveness of the UN sanctions in Angola, which indirectly targeted the United Nations and forced them to

⁴¹ Interview with Ian Smillie on October 6, 2016.

⁴² Keck, M. E., Sikkink, K. (1998). “*Activists Beyond Borders*.” Cornell University Press. Page 16.

react. The United Nations responded to criticisms by mandating a report on the violations of the sanctions in Angola.⁴³ More precisely, the group of experts had to

collect information and investigate reports (...); identify parties aiding and abetting the violations of the above-mentioned measures; recommend measures to end such violations and to improve the implementation of the above-mentioned measures.⁴⁴

The panel of experts produced a report called the “Fowler Report” and directly called for action:

It is also clear however, that unless the Security Council and the international community remain engaged in this effort, there is a very real risk that when the focus has been turned off UNITA and its partner will go back to business as usual. The fear that UNITA will then be able to rearm and equip itself, as in the past, is a very often expressed fear and concern of persons encountered by the Panel.⁴⁵

The publication of this report highlighted the importance of conflict diamonds and reinforced the work of NGOs. In addition to the publication of reports, NGOs also urged the United Nations General Assembly, in 2000, to pass a resolution to “launch negotiations for the establishment of an internationally binding treaty that will regulate the import and export of diamonds in order to end the trade in conflict diamonds.”⁴⁶ Other NGOs (including Oxfam, Action against Hunger, Care International, Global Policy

⁴³ Beffert, D., & Benner, T. (2005). Stemming the tide of conflict diamonds—the Kimberley Process. Part A: Looking for the white underbelly of the dragon. *Draft case study, Hertie School of Governance*.

⁴⁴ UN Security Council. (1999). Resolution 1237. Retrieved from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/134/03/PDF/N9913403.pdf?OpenElement>.

⁴⁵ Final Report of the UN Panel of Experts on Violations of Security Council Sanctions Against Unita. (2000). Retrieved from <https://www.globalpolicy.org/global-taxes/41606-final-report-of-the-un-panel-of-experts.html>.

⁴⁶ Global Policy Reform. (2000). Global Witness urges UN to pass. Retrieved from <https://www.globalpolicy.org/component/content/article/182/33762.html>.

Reform, and the Women's Commission on Refugee Women and Children) wrote letters to the Security Council to call for action.⁴⁷

Second, the Civil Society Network aimed to increase public awareness about the issue of conflict diamonds. They launched several awareness campaigns, which were part of the Blood Diamond Campaign, to shock the public and make them aware of the relationship between diamonds and rebels. NGOs (including Global Witness and Amnesty International) published reports and posters picturing ripped-off ears or torn fingers of black women wearing diamond jewelry. The NGOs made it clear that they wanted to make people aware of the human rights abuses that were linked to the production of diamonds but were not calling for a consumer boycott.⁴⁸ Two important initiatives contributed to increasing awareness: Fatal Transactions and the Campaign to Eliminate Conflict Diamonds. Fatal Transactions was a campaign that began in 1999 and was launched by Global Witness, the German NGO Medico International, NIZA, and NOVIB.^{49,50} It was the “first gathering of NGOs working together in the fight against blood diamonds”⁵¹ and gave rise to the Fatal Transactions Network that lasted for 10 years. More precisely, in 2000, it aimed to

disclose profit interests and the illegal exploitation of resources, (...) and to hold companies, which have profited by the trade during the recent decades,

⁴⁷ Global Policy Reform. (2000). NGO letter calling for Security Council action on the diamond trade and the civil war in Sierra Leone.” Retrieved from <https://www.globalpolicy.org/component/content/article/182/33722.html>.

⁴⁸ Bieri, F. (2010). From blood diamonds to the Kimberley Process: How NGOs cleaned up the global diamond industry.” *Farnham, Surrey, England; Burlington, VT: Ashgate*.

⁴⁹ NOVIB is part of Oxfam (Nederlandse Organisatie Voor Internationale Bijstand).

⁵⁰ Bieri, F. (2009). The quest for regulating the global diamond trade. *Institut Catala Internacional per la Pau Barcelona*.

⁵¹ BICC. (2012). Fatal Transactions newsletter, February 2012. Retrieved from <https://www.bicc.de/fataltransactions/pdf/FT%20Newsletter%20February%202012.pdf>.

responsible for the removal of the war damages and the compensation of the victims.⁵²

The Campaign to Eliminate Conflict Diamonds began on the 16th of February 2001 and was “geared to raise consumer concerns about conflict diamonds and solicit support for proposed U.S. legislation that would ban imports of conflict diamonds into the United States.”⁵³ It included a press conference, an Internet campaign, and demonstrations in front of Tiffany’s in San Francisco and Chicago. The initiative brought together Amnesty International USA, World Vision, Physicians for Human Rights, Oxfam USA, and World Relief.

Moreover, in the early 2000s, the Civil Society Network had managed not only to push the issue of conflict diamonds to the heart of discussions in the United Nations but also to attract media attention, which significantly increased public awareness. Ian Smillie, who was a member of Partnership Africa Canada and participated in writing the report “The Heart of the Matter: Sierra Leone, Diamonds & Human Security,” describes the impact that it had on media coverage:

Features articles appeared in The Financial Times, The Guardian, The Los Angeles Times, De Morgen, The Globe and Mail, de Volkskrant, La Presse, the International Herald Tribune and a dozen others. The story was carried on CNN, the BBC, CBC, Reuters and the Associated Press. Mostly the reaction was one of horror at the connection between diamonds – supposed symbols of love – and the brutality that had become so rampant in Sierra Leone.⁵⁴

People had access to the facts, and the emotional message that the Blood Diamond Campaign delivered reached them and contributed to undermining consumer confidence.

⁵² Ibid.

⁵³ Global Policy Reform. (2001). “US NGO’s initiate Valentine’s Day campaign. Retrieved from <https://www.globalpolicy.org/component/content/article/182/33779.html>.

⁵⁴ Smillie, I. (2010). “Blood on the Stone: Greed, Corruption and War in the Global Diamond Trade.” *International Development Research Centre*.

The short and clear causal relationship between diamonds and human rights abuses helped NGOs to convey their message.⁵⁵

Third, NGOs directly targeted De Beers in their reports.⁵⁶ They used a name and shame tactic to raise the awareness of the public and to clarify the causal relationship between diamonds and human rights violations. The intensity of the Blood Diamond Campaign and the increasing public awareness pushed this enterprise to revise its strategy and react proactively to the issue of conflict diamonds. De Beers realized that the Blood Diamond Campaign could significantly damage the image of diamonds and hurt the industry.⁵⁷ In 2000, it launched its best practices principles, which stated that it would not trade diamonds that encourage or support conflict. The diamond industry thus had a lot to gain from a reliable certification scheme, which could directly impact consumer confidence.⁵⁸ Andrew Lamont, the spokesman of De Beers at that time, made several declarations:

De Beers knows all too well the deleterious effects that conflict and political instability often have on potential large-scale investors... Having spent hundreds of millions of dollars on advertising its product, De Beers is deeply concerned about anything that could damage the image of diamonds as a symbol of love, beauty and purity.⁵⁹

⁵⁵ Keck, M. E., & Sikkink, K. (1998). *Activists beyond Borders*. Cornell University Press.

⁵⁶ Including the report written by Global Witness, *A rough trade: The role of companies and governments in the Angolan conflict* and the report written by Partnership Africa Canada, *The heart of the matter: Sierra Leone diamonds & human security*.

⁵⁷ Haufler, V. (2010). The Kimberley Process certification scheme: An innovation in global governance and conflict prevention. *Journal of Business Ethics*, 89, 403-416.

Scott, J. (2016). Extractives and multi-stakeholder initiatives: The voluntary principles on security and human rights; the extractive industries transparency initiative; the Kimberley Process certification scheme. *Business and Human Rights from Principles to Practice*, ed. D. Baumann-Pauly & J. Nolan.

⁵⁸ Bone, A. (2012). "The Kimberley Process certification scheme: The primary safeguard for the diamond industry. *High-Value Natural Resources and Peacebuilding*, ed P. Lujala and S.A. Rustad.

⁵⁹ Durham, D. (2001). "De Beers sees threat of blood diamonds." CNN. Retrieved from <http://edition.cnn.com/2001/WORLD/africa/01/18/diamonds.debeers/>

There is a great danger of throwing the baby out with the bathwater. We have heard the siren calls that diamonds could go the same way as the fur trade. But diamonds don't kill people, people with guns kill people, and these guns are supplied from the West.⁶⁰

De Beers started to work with NGOs and the United Nations to address the issue of conflict diamonds.

The name and shame tactic of NGOs pushed De Beers to take the lead and engage with the conflict diamond issue; Bain & Company, a global management consulting company, was reviewing the business strategy of De Beers during the same period.⁶¹ The consulting company advised the CEO of De Beers to move from its position of purchaser of last resort to supplier of choice, which implied that its operations would be more transparent and take into account the impact that the production process can have on human rights abuses.⁶² The focus would not be on controlling the supply of diamonds but on driving the demand for diamonds. This new business model had significant repercussions for De Beers. First, it improved the performance of the company both in the short term and long term. Second, it highlighted its willingness to address the issue and engage with relevant actors, which could help to restore its public image. In other words, De Beers managed to transform the risk into a business opportunity that would yield

⁶⁰ Ibid.

⁶¹ Beffert, D., & Benner, T. (2005). "Stemming the tide of conflict diamonds – the Kimberley Process. Part A: looking for the white underbelly of the dragon". *Draft case study, Hertie School of Governance*.

⁶² Hughes, T. (2010). "Conflict Diamonds and the Kimberley Process: Mission Accomplished or Mission Impossible?" *South African Journal of International Affairs*, 13(2), 115-130.

reputational benefits.⁶³ Third, the company took advantage of its leadership position to coordinate and unify the message of the diamond industry.⁶⁴ It led to the creation of the World Diamond Council, which represents the interests of the diamond industry.⁶⁵

The network of NGOs managed to engage key actors, including the media, and shed light on the issue of conflict diamonds by sharing the causal story of diamonds and constantly exchanging information and resources. Keck and Sikkink argued that “networks are more effective where they are strong and dense,” which is defined by the “total number and size of organizations in the network, and the regularity of their exchanges.”⁶⁶ In the case of the Blood Diamond Campaign, more than 200 NGOs exchanged information and resources to shed light on the diamond industry. Their initiatives occurred over a period of three years, during which they worked together on a regular basis. NGOs, together with key individuals within states and the United Nations, managed to “elevate the urgency to address the conflict diamonds problem.”⁶⁷ Each actor (governments, the diamond industry, and NGOs) had different underlying motivations, but all wanted to address the issue of conflict diamonds.

⁶³ Kantz, C. (2008). “Precious Stones, Black Gold and the Extractive Industries: Accounting for the Institutional Design of Multi-Stakeholder Initiatives.” *London School of Economics and Political Sciences*.

⁶⁴ Beffert, D., & Benner, T. (2005). “Stemming the tide of conflict diamonds – the Kimberley Process. Part A: looking for the white underbelly of the dragon”. *Draft case study, Hertie School of Governance*.

⁶⁵ More information about the World Diamond Council can be found in Chapter III.

⁶⁶ Keck, M. E., & Sikkink, K. (1998). *Activists beyond borders*. Cornell University Press.

⁶⁷ Bieri, F. (2009). The quest for regulating the global diamond trade.” *Institut Catala Internacional per la Pau Barcelona*.

Negotiations and the Establishment of a Tripartite Structure

In the early 2000s, the Blood Diamond Campaign and the report mandated by the UN Security Council had significantly increased awareness about conflict diamonds. Producing countries started to be concerned about the growing clamor over diamonds and feared that it could damage the diamond trade and consequently impact the national economy. In several southern African countries, the diamond industry represents a significant share of the GDP and is important for the survival of the national economy. Nelson Mandela, who was the president of South Africa from 1994 to 1999, highlighted the impact that it could have on the economy of those countries:

The diamond industry is vital to the South African and southern African economy. We would be concerned that an international campaign on these issues does not damage this vital industry. Rather than boycotts being instituted, it is preferable that through our own initiatives the industry takes a progressive stance on human rights issues.⁶⁸

Governments of diamond producing countries had a strong interest in addressing the issue of conflict diamonds in order to limit the impact that a backlash could have on their economies. This was particularly the case for South Africa, Botswana, and Namibia, where no conflict diamonds were traded, but which could be affected by the negative publicity about diamonds.⁶⁹ They were “alarmed about the threat to an industry worth US\$50 billion per year—and equally intrigued by the prospect of breaking the link between natural resources and conflicts.”⁷⁰

⁶⁸ IRIN. (1999). “Mandela concerned at diamond boycott.” IRIN. Retrieved from <http://www.irinnews.org/report/10604/southern-africa-mandela-concerned-diamond-boycott>.

⁶⁹ Interview with Ian Smillie, who represented Partnership Africa Canada during the establishment of the Kimberley Process (October 6, 2016).

⁷⁰ Wright, C. (2012). The Kimberley Process certification scheme: A model negotiation?” *High-Value Natural Resources and Peacebuilding*, ed. P. Lujala and S. A. Rustad.

It is in that context that Phumzile Mlambo-Ngucka, South Africa's minister of Minerals and Energy, convened a meeting in Kimberley in May of 2000 (in the Northern Cape Province of South Africa). This first meeting comprised not only representatives from South Africa, Botswana, Namibia, Belgium, the United Kingdom, and the United States, but also De Beers, Global Witness, and Partnership Africa Canada. During the first meeting, it was clear that a certification system had to be implemented and that additional meetings, addressing both the technical and ministerial aspects of conflict diamonds, would follow.⁷¹ Two months after this first meeting, the UN Security Council voted to ban rough diamonds originating from Sierra Leone, and the World Diamond Council was created to represent the interests of the diamond industry.

In September 2000, a second meeting took place in Namibia. This time, all the main producing and important countries except for India, Sierra Leone, and the Democratic Republic of Congo, were present, along with representatives from the diamond industry and civil society.⁷² As more people were part of the working group, the negotiation process was more difficult and slower.

In December 2000, the United Nations adopted a resolution for the creation of a certification scheme for rough diamonds. In November 2002, after two years of negotiations, 37 governments signed the Kimberley Process Certification Scheme during the last meeting in Switzerland. The Kimberley Process was formally implemented in January 2003.

⁷¹ Interview with Ian Smillie on October 6, 2016.

⁷² Kimberley Process website. The timeline of the Kimberley Process. Retrieved from http://www.diamondfacts.org/pdfs/conflict/Kimberley_Process_Timeline.pdf.

The involvement of the diamond industry and NGOs was no coincidence; governments wanted to engage with those two actors to increase the legitimacy of their negotiations.⁷³ On the one hand, De Beers brought to the table its expertise on the technical aspect of the diamond trade. It could help governments understand what was feasible and what could be technically implemented. Being part of the negotiation process was also an opportunity for the diamond industry. Even if De Beers was not willing to provide its insider information to governments,⁷⁴ it was a chance to restore its image and shape the certification scheme to be as inexpensive as possible and easy to implement.

On the other hand, NGOs could increase the legitimacy of the negotiations in two different ways. First, the Blood Diamond Campaign had reached a large audience: the media was covering NGOs' actions, and the public awareness about conflict diamonds had increased. Engaging with the critics was a way for governments to address existing tensions and emphasize their willingness to find a solution that would be deemed acceptable by the NGOs. Second, Global Witness and Partnership Africa Canada had gained a strong background in conflict diamonds, which would improve the quality and credibility of the negotiations. They had published reports that contained detailed information and recommendations about the situation in Angola and Sierra Leone; those reports, coupled with the rest of their activities, gave them the needed credibility and legitimacy to be part of the negotiations. However, not all actors perceived NGOs as

⁷³ Bieri, F. (2009). The quest for regulating the global diamond trade. *Institut Catala Internacional per la Pau Barcelona*.

⁷⁴ Wright, C. (2012). "The Kimberley Process Certification Scheme: A model negotiation?" *High-Value Natural Resources and Peacebuilding*, ed. P. Lujala and S. A. Rustad.

legitimate members of the negotiations process; some governments were reluctant to work with NGOs, which was particularly the case with Russia.⁷⁵

All three categories of actors needed to be involved to implement a strong and efficient certification scheme: NGOs for legitimacy, the diamond industry for its technical expertise, and governments to enforce the scheme. The certification scheme was not perfect, but it was impossible to further improve it at the time without losing the support of some countries and making the whole process fall apart.⁷⁶

⁷⁵ Interview with Ian Smillie on October 6, 2016.

⁷⁶ Interview with Ian Smillie on October 6, 2016. This is notably the case with a decision-making process that is based on a consensus.

Chapter III

The Internal Structure of the Kimberley Process

NGOs played a significant role in shedding light on the issue of conflict diamonds in the late 1990s. They were also part of the negotiation process of the Kimberley Process and worked to design a tripartite voluntary agreement that would both break the link between diamonds and human rights abuses and satisfy the diamond industry and governments. Fifteen years later, NGOs remain observers of the certification scheme with full speaking rights.

This chapter aims to explain how the Kimberley Process works, from its mission statement to the interactions between the members of the multi-stakeholder initiative.⁷⁷ The first section briefly explains what the Kimberley Process is and how it works to prevent rebels from looting diamonds. The second section defines the different categories of actors involved in the Kimberley Process and summarizes their interests. The third section describes the different working groups of the certification scheme.

How Does the Kimberley Process Work?

The Kimberley Process is a voluntary certification scheme that was created in the early 2000s in response to the increasing problem of conflict diamonds in several African countries. It aims to eliminate the trading of diamonds by rebels by regulating the supply

⁷⁷ The specific roles that NGOs can play within the Kimberley Process will be analyzed in Chapter IV. This chapter focuses on the structure of the Kimberley Process, not its effectiveness.

chain. Participating countries must, among others requirements,⁷⁸ commit to trading diamonds only with other participants of the Kimberley Process, maintain an internal control system, exchange statistical data on diamond imports and exports, and ensure the transparency of revenues issued from the diamond industry. These requirements are supposed to “enable them to certify shipments of rough diamonds as ‘conflict-free’ and prevent conflict diamonds from entering the legitimate trade.”⁷⁹

In addition, a Kimberley Process certificate⁸⁰ must accompany each diamond that is traded among participants. It must include the following statement: “The rough diamonds in this shipment have been handled in accordance with the provisions of the Kimberley Process Certification Scheme for rough diamonds.”⁸¹ Diamonds must be traceable; this is why the certificate must include relevant information to identify the shipment, such as the issuing authority, the identification of the exporter and importer, and the number of parcels in the shipment.

The Kimberley Process is currently issuing warnings to the public concerning fake Kimberley Process certificates in the Democratic Republic of Congo, Angola, Malaysia, and Ghana.^{82, 83} Each country is responsible for issuing the certificates, and the lack of

⁷⁸ The comprehensive list of requirements can be found in Appendix 1.

⁷⁹ Kimberley Process website (About section). Retrieved from <https://www.kimberleyprocess.com/en/about>.

⁸⁰ The comprehensive list of requirements can be found in Appendix 2.

⁸¹ Kimberley Process Certification Scheme. Retrieved from <https://www.kimberleyprocess.com/en/kpcs-core-document>.

⁸² Kimberley Process website (Enforcement section). Retrieved from <https://www.kimberleyprocess.com/en/enforcement>.

⁸³ No additional information could be found on the fake certificates.

harmonization means that not all certificates are equally valid and relevant.⁸⁴ Most of them, including the certificates issued by the European Union, are printed by security printing firms and have a tear-off section to be returned to the sender for confirmation of receipt. However, some countries issue certificates that are more basic. For example, the United States uses a bar code instead of a security printing code, displays only basic information (the exporter, the importer, the date of issue, the date of expiry, the number of parcels, the carat weight/mass, and the value in US\$), and does not have a tear-off section. The lack of harmonization can potentially create an additional challenge: it makes it more difficult for investigating entities to identify fake certificates.

Finally, the Kimberley Process deals only with diamonds that fall under the official definition of conflict diamonds: “rough diamonds used by rebel movements or their allies to finance armed conflict aimed at undermining legitimate governments.”⁸⁵ This narrow definition does not include all types of diamonds that may fund violence. This definition has two broad consequences. First, the requirements of the Kimberley Process Certification Scheme are limited to rough diamonds, which means that other steps of the supply chain, namely the cutting and polishing of diamonds,⁸⁶ are not under the requirements of the Kimberley Process Certification Scheme. However, a change in the scope of the Kimberley Process would represent financial losses for the diamond industry because every diamond sold on the market to end-consumers would need to have

⁸⁴ All following information comes from an interview with Ian Smillie (13 October, 2016).

⁸⁵ Kimberley Process website. *What are conflict diamonds*. Retrieved from <https://kimberleyprocess.com/en/faq>.

⁸⁶ Step 1: extracting rough diamonds; step 2: cutting diamonds; step 3: polishing diamonds; step 4: reselling diamonds on the market. Only the first part of the supply chain is subject to the requirements imposed by the Kimberley Process.

two additional levels of certification: the cutting and the polishing of the diamond. This means that each industry would have to implement the certification scheme to regulate all the steps of the value chain, and not solely the extraction of the diamonds. That process would cost money, at least in the short term, to implement all the required mechanisms to certify cut and polished diamonds. In 2012, the United States chaired the Kimberley Process and proposed broadening the scope of the Kimberley Process to include cutting and polishing centers. However, some countries (including Russia and Zimbabwe) decided to block the proposition, despite the strong support of the Civil Society Coalition and its allies (Canada, the European Union, the United States, and Australia).⁸⁷ Second, the current definition of conflict diamonds focuses solely on the appropriation of diamond revenues by rebels, which means that abuses by governments and corporations are excluded.⁸⁸

The Actors of the Kimberley Process

The Kimberley Process is a multi-stakeholder initiative that does not have a fixed secretariat or headquarters; every year a different country chairs the Kimberley Process with the help of a vice chair and the Committee on Participation and Chairmanship (CPC), which reviews the admission of new members and the compliance of current members. The CPC also implements the process for selecting a new vice chair. Finally, there is the Committee on Rules and Procedures (CRP), which is in charge of reviewing all working documents and procedures.

⁸⁷ Interview with Farai Maguwu (Center for Natural Resource Governance) on September 20, 2016.

⁸⁸ Cullen, H. (2013). Is there a future for the Kimberley Process Certification Scheme for conflict diamonds? *Macquarie Law Journal*, 12.

This initiative includes three categories of actors: the diamond industry, NGOs, and governments. They do not all have the same rights and power within the certification scheme. As shown in Table 1, actors can be divided into two categories: the participants and the observers. Both categories can express their views during the official meetings (intersessional and plenary meetings)⁸⁹ and participate in the activities of the different working groups. However, only participants can vote and have a say in making final decisions. There is thus an imbalance of power between the participants and observers of the Kimberley Process. This type of governance is not unique. Harris Gleckman analyzed the concepts proposed by the World Economic Forum's Global Redesign Initiative. He highlighted that:

The three crucial elements of what WEF means by multi-stakeholder are embedded here. First, that multi-stakeholder structures do not mean equal roles for all stakeholders; second, that the corporation is at the centre of the process; and third, that the list of WEF's multi-stakeholders is principally those with commercial ties to the company: customers, creditors, suppliers, collaborators, owners, and national economies. (...). All categories of actors in a multi-stakeholder governance system are not created equal. State, non-state, and corporate actors have asymmetric capacities to finance their participation in MSGs, different levels of potential ways to negotiate in a process, a different set of technical skills and clearly different capacities to implement or hinder the outcome of a MSG process.⁹⁰

The decision-making process of a multi-stakeholder initiative depends on the goal that it wants to reach and the expertise and resources of the actors. The governance can have important consequences on the dynamics between the different actors.

⁸⁹ Members of the working groups meet during the intersessional meeting. The participants and observers meet during the plenary meeting to vote on decisions regarding the development of the Kimberley Process.

⁹⁰ Harris Gleckman. (2016). "Multi-stakeholder Governance: a Corporate Push for a New Form of Global Governance". Retrieved from <https://www.tni.org/files/publication-downloads/state-of-power-2016-chapter5.pdf>

Table 1: The Internal Structure of the Kimberley Process in 2016

PARTICIPANTS (governments)	OBSERVERS (civil society and the diamond industry)
<p>Angola Armenia Australia Bangladesh Belarus Botswana Brazil Cambodia Cameroon Canada CAR China Côte d'Ivoire DRC European Union Ghana Guinea Guyana India Indonesia Israel Japan Kazakhstan Laos Lebanon Lesotho Liberia</p>	<p>World Diamond Council (2000) 41 members, the full list of members can be found in Appendix 3</p> <p>Diamond Development Initiative (2006) The advisory board includes people coming from the academic world, the industry AND civil society</p> <p>African Diamond Producers Association (2006) <u>Members:</u> Angola, Botswana, CAR, DRC, Ghana, Guinea, Namibia, Sierra Leone, South Africa, Tanzania, Togo, Zimbabwe <u>Observers:</u> Algeria, Congo, Gabon, Ivory Coast, Liberia, Mali, Mauritania</p> <p>Civil Society Coalition Partners</p> <p>Partnership Africa Canada (Canada); Green Advocates (Liberia); Network; Movement for Justice and Development (Sierra Leone); Réseau de la lute contre la Faim (Cameroon); Groupe d'Appui aux Exploitants des Ressources Naturelles (DRC) ; Zimbabwe Environmental Lawyers Association (Zimbabwe) ; Center for Natural Resource Governance (Zimbabwe); Centre du Commerce International pour le Développement (Guinea) ; Centre Nation d'Appui au Développement et à la Participation Populaire (DRC) ; Groupe de recherche et de plaidoyer sur les Industries Extractives (Côte d'Ivoire)</p>

Participants

The participants are the countries that have committed to comply with the requirements of the Kimberley Process. As stated on the official website, 54 participants, both exporting and importing countries, have joined the Kimberley Process, with the member states of the European Union counting as a single participant.⁹¹ There are also seven countries that are candidates.⁹²

Participants vote during the plenary meeting and must reach a consensus to make any decision. Consequently, if a minority of the countries opposes a proposal, it will not be implemented. Reaching an agreement can be very slow, and in some cases, appropriate sanctions may not be established. This was the case with Venezuela and the Ivory Coast, where conflict diamonds were illegally smuggled.⁹³ In 2006, Partnership Africa Canada published a report on the situation in Venezuela:

Partnership Africa Canada (PAC) has found direct evidence that Venezuelan diamonds are being smuggled into Guyana. In fact, no one seems at any great pains to deny it. Individual miners and cooperative officers openly admit they hide a majority of their diamond production from the government. Venezuelan mines inspection officers estimate that only 10 per cent or less of Venezuela's diamond production is declared and routed into legal export channels.⁹⁴

The Kimberley Process was slow to react, and after a few months the government admitted that it had little control and oversight over diamond production and decided to

⁹¹ <https://www.kimberleyprocess.com>

⁹² Current candidates: Mozambique, Republic of Gabon. Expressed interest: Burkina Faso, Republic of Chile, Republic of Kenya, Mauritania, and Republic of Zambia.

⁹³ Global Witness. (2010). Return of the blood diamond: The deadly race to control Zimbabwe's new-found diamond wealth.

⁹⁴ Partnership Africa Canada. (2006). "The Lost World. Diamond Mining and Smuggling in Venezuela". Retrieved from http://pacweb.org/images/PUBLICATIONS/Conflict_Diamonds_and_KP/16_TheLostWorld_Nov2006.pdf.

voluntarily withdraw from the Kimberley Process and come back once it could ensure that every diamond could be certified by the certification scheme.

In the case of the Ivory Coast, the United Nations had to implement an embargo on diamonds. Some participants and observers had raised concerns about Venezuela and the Ivory Coast, including the World Diamond Council, which wrote:

We, the World the World Diamond Council, would like to express our grave concerns regarding the current situation in West Africa amid reports that rough diamonds from Ivory Coast are being smuggled over the border into Ghana and exported from Accra with the validation of a Kimberley Process Certificate. We appeal to the Chair and participant nations of the Kimberley Process to act swiftly, decisively and in unison, to resolve this serious situation to safeguard the integrity of the Kimberley Process itself and protect the industry from diamonds that have potentially originated from prohibited sources.⁹⁵

However, in both cases, the Kimberley Process failed to take action and neither country was expelled from the certification scheme.

Observers

The World Diamond Council, the Civil Society Coalition partners, the Diamond Development Initiative, and the African Diamond Producers Association have observer status. Even though they cannot vote, they can participate in all the activities and meetings of the Kimberley Process; they can communicate their ideas and voice concerns to the participants.

First, the World Diamond Council, which was established in July 2000 at the World Diamond Congress in Antwerp, represents the interests of the diamond industry. It is composed of “representatives of national and international industry organizations, major jewelry manufacturers and retailers, mining companies, gem labs, and bank

⁹⁵ Golan, E. (2006). “WDC Expresses Concern Over U.N. Ivory Coast Report.” Retrieved from <http://www.idexonline.com/FullArticle?Id=26335>.

representatives.”⁹⁶ There are currently 41 members, including members from the production sector, such as Rio Tinto Diamonds NV, as well as from the retail sector, such as Tiffany & Co. The World Diamond Council participates in the official meetings and the activities of the working groups through the Kimberley Process Task Force. The World Diamond Council has a strong knowledge in the different steps of diamond production. This can help participants make informed decisions about the technical aspects of the certification scheme.

Second, the Civil Society Coalition Partners, which was established in 2007,⁹⁷ also has observer status.⁹⁸ It currently includes nine NGOs; only those participating NGOs can deliver statements⁹⁹ during the official meetings of the Kimberley Process and be part of the working groups. However, actors (both participants and observers) can consult external NGOs if necessary. This was the case in November 2016, when the chair of the Kimberley Process decided to meet with several NGOs to discuss the policy changes that it wanted to propose during the plenary meeting.^{100,101}

⁹⁶ World Diamond Council website: <https://www.worlddiamondcouncil.org/about-wdc/history>

⁹⁷ The participation of NGOs before 2007 is unclear, and no information is available on the official website of the Kimberley Process. Partnership Africa Canada and Global Witness were representing the civil society, but there is no information about what other NGOs were directly included in the Kimberley Process.

⁹⁸ Before 2007, Global Witness and Partnership Africa Canada had observer status and were representatives of civil society.

⁹⁹ The opening and closing statement of the Civil Society Coalition is prepared by the nine NGOs and is delivered by one representative of the Civil Society Coalition.

¹⁰⁰ Those policy changes are described in Chapter V.

¹⁰¹ The chair could not meet with the Civil Society Coalition because of the boycott, but it wanted to listen to the views of other NGOs.

Table 2: Stated Interests of the Civil Society Coalition¹⁰²

Partnership Africa Canada	“Investigating and reporting on the lack of accountability, poor governance, and human rights violations associated with conflict minerals / developing and implementing solutions in collaboration with local partners to improve natural resource governance, including the certification of conflict minerals and clean supply chains / providing capacity-building and technical assistance to support transparency in the mining sector, including the development of industry guidelines / promoting policies and programs that support gender equality and women’s entrepreneurship in artisanal mining.”
Green Advocates	“Protect the environment by campaigning for stronger legislation and monitoring the implementation of existing regulation in this area / advance human rights by promoting sound environmental practices and upholding the claims of Liberia’s rural communities / empower the people of Liberia to participate in environmental decision-making through the use of education campaigns and the provision of training activities.”
Network Movement for Justice and Development	“Engages in advocacy and strengthens/enhances the capacity of civil society organizations to effectively engage women, men, children, communities, government and other actors for the transformation of society.”
Réseau de la lutte contre la Faim	“To tackle the more systemic inequities RELUFA campaigns against the opaque dealings in the Extractive Industries and take on the intricate connections between Food, Land and Trade.”
Zimbabwe Environmental Lawyers Association	“Promote environmental justice, sustainable and equitable use of natural resources, democracy and good governance in the natural resources and environment sector. We seek to accomplish our mission through legal and policy research, advocacy, impact litigation, conflict resolution and civic education.”
Center for Natural Resource Governance	“Bringing together affected communities to capacitate them for direct non violent peaceful action to resist destructive mining. CNRG is also promoting alternatives to mining with a major focus on promoting food security in communities affected by mining. Alternative livelihood options will also liberate communities to resist destructive mining.”

¹⁰² The following statements were extracted from the websites of the NGOs. The list can be found in the bibliography.

The composition of the Civil Society Coalition has changed considerably since its establishment. Out of the 14 NGOs that were initially included in 2007, nine¹⁰³ have left the initiative and five¹⁰⁴ have remained members of the Civil Society Coalition.¹⁰⁵ As can be seen in Table 2,¹⁰⁶ their stated interests are relatively diverse: human rights, environmental and social impact, and transparency. However, from a geographical perspective, there is a significant lack of diversity. In fact, some countries where conflict diamonds used to be an issue are not represented at all in the Civil Society Coalition. This is the case, for example, with Angola, the Republic of Congo, the Ivory Coast, the Central African Republic, and Venezuela.¹⁰⁷ Current members of the Civil Society Coalition are trying to bring NGOs from those countries on board.¹⁰⁸

Third, the Diamond Development Initiative (DDI) is a non-profit organization that was formed in 2005. It aims to improve the governance of diamonds in the artisanal and small-scale mining sector. As explained on the official website:

¹⁰³ Global Witness, Grémio ABC, ONG Développement Femme, Southern Africa Resource Watch, Fatal Transactions, Cooperativa Regional Garimpeira de Diamantina, Cooperative dos Garimpeiros de Coromandel e Regiao, Comite de Liaison des ONG du Congo Republic of Congo, Civic Response

¹⁰⁴ Green Advocates, Network for Justice and Development, Partnership Africa Canada, Centre du Commerce International pour le Développement, Centre Nation d'Appui au Développement et à la Participation Populaire

¹⁰⁵ The list of NGOs that were included in the Civil Society Coalition in 2007 is available on the Kimberley Process website.

¹⁰⁶ The following websites could not be accessed: Groupe d'Appui aux Exploitants des Ressources Naturelles, Centre du Commerce International pour le Développement, Centre Nation d'Appui au Développement et à la Participation Populaire.

¹⁰⁷ There is no specific reason why there are no NGOs from those countries included in the Civil Society Coalition. I believe that the lack of interest (they may not believe in the efficiency of the Kimberley Process), time, and/or financial resources of local NGOs can partially explain this.

¹⁰⁸ The Civil Society Coalition is built by the members; governments and the diamond industry do not have a say in which NGOs are permitted to be members.

“As a regulatory system, the Kimberley Process does not address issues of poverty and exploitation. DDI seeks to fill this gap and respond to development problems with development solutions.”¹⁰⁹

More precisely, the DDI aims to address challenges that are specific to artisanal and small-scale mining through three types of activities. It is part of the Working Group on Alluvial and Artisanal Production¹¹⁰ and aims to improve national laws and legislations; it also tries to “encourage KP member countries to adopt Development Diamond Standards as national policy within their own country.”¹¹¹ Moreover, it works to register miners and legalize their situation, and it establishes Artisanal Miner Cooperatives for miners who are registered. Finally, it is currently implementing the Maendeleo Diamond Standards certification system (this certifies that diamonds are not only conflict-free but also “human rights abuses-free”). The Diamond Development Initiative considers this certification scheme to be an effective complement to the Kimberley Process: “while the Kimberley Process deals with the regulatory issues, the Maendeleo Diamond Standards address the development needs of the artisanal diamond miners and their communities, which is foundational to conflict prevention.”¹¹²

Fourth, the African Diamond Producers Association is an organization where members can share their expertise and best practices. It was formed in 2006 and is

¹⁰⁹ Diamond Development Initiative website, <http://www.ddiglobal.org/who-we-are/about>

¹¹⁰ The structure and activities of the Working Group on Alluvial and Artisanal Production are described in the next sub-section.

¹¹¹ Diamond Development Initiative website, section “What do we do”. Last consulted on October 17, 2016. Retrieved from <http://www.ddiglobal.org/what-we-do/kimberley-process-development-agenda>

¹¹² Diamond Development Initiative website. “Diamond Development Initiative launches new standards for responsibly-sourced, artisanally-mined diamonds. Retrieved from <http://www.ddiglobal.org/login/resources/mds-press-release.pdf>.

comprised of several African governments.¹¹³ It aims to “create a forum and framework where members could discuss their common interests and act in a harmonized way.”¹¹⁴ As of 2014, three workshops had taken place: members worked on harmonizing their diamond policies, norms, and fiscal regimes.¹¹⁵ This association does not have an official website; consequently, little information on this initiative could be collected.

The Four Working Groups

As explained earlier, several working groups exist that aim to strengthen the effectiveness of the certification scheme. They meet at least once a year to present the results and discuss challenges during the intersessional meeting. These groups play a significant role in the development of the Kimberley Process because they help with different aspects of the certification scheme that require specific expertise.

There are currently four working groups: the Working Group on Monitoring (WGM), the Working Group of Diamond Experts (WGDE), the Working Group on Statistics (WGS), and the Working Group on Artisanal and Alluvial Production (WGAAP). The members of the working groups work together throughout the year; they discuss current challenges, analyze suggested policy changes, and determine best practices. The results of their work are then presented during the intersessional and plenary meetings.

¹¹³ Those governments are also participants of the Kimberley Process. No information could be found on why this group has observer status within the Kimberley Process.

¹¹⁴ Carvalho, E. (n.d.). African Diamond Producers Association: Transforming Africa’s diamonds. *Chief Executive Officer website*. Retrieved from <http://www.the-chiefexecutive.com/projects/africa-diamonds/>.

¹¹⁵ Carvalho, E. (2014). ADPA brokers unprecedented growth. *The Worldfolio website*. Retrieved from <http://www.theworldfolio.com/interviews/adpa-brokers-unprecedented-growth/3400/>.

The next section looks at the role that each actor can play in the different working groups, with a particular focus on NGOs. It will then describe the activities of the working groups and explain how the working groups can strengthen the effectiveness of the Kimberley Process.

Structure of the Working Groups

All actors (observers and participants) in the Kimberley Process can be members of the four working groups. This is an opportunity for the observers of the Kimberley Process to express their views outside the formal intersessional and plenary meetings. However, if an actor is not an official member of a working group, it cannot take part in the activities of this working group. It is thus necessary for each participant and observer to request membership if they want to be part of a working group, based on their expertise.

Countries must request their membership to each working group.¹¹⁶ The World Diamond Council, the Diamond Development Initiative and the African Diamonds Producers Association must also request membership, and their members can then act as representatives within the working groups.¹¹⁷ In all cases, the adhesion of an actor to one working group does not mean that it is automatically included in the three other working groups.

The situation is slightly different for the Civil Society Coalition. Members of the Civil Society Coalition can become part of a working group in two different ways. First, a

¹¹⁶ In other words, if a country wants to take part in the activities of a working group, it must become a member.

¹¹⁷ Firms that are not part of the World Diamond Council cannot become members of any working group.

participating NGO (i.e., one of the nine NGOs that are members of the Civil Society Coalition) can be part of a working group as an individual NGO; this is the case with Partnership Africa Canada, which is part of the Working Group on Statistics. In that case, only Partnership Africa Canada can participate in the activities of the Working Group on Statistics because the other members of the Civil Society Coalition (and the Civil Society Coalition itself) have not formally requested to be part of the working group.¹¹⁸

Second, it can participate as a representative of the Civil Society Coalition; this is the case with the Working Group on Monitoring. Each member of the Civil Society Coalition can participate in the activities of the Working Group on Monitoring because the Civil Society Coalition is a formal member of the group; Partnership Africa Canada can thus also participate in the activities of the working group as a representative of the coalition.

Even though all actors can become members of the four working groups, the participation of observers is uneven. As can be seen in Table 3, while the World Diamond Council is represented in all four working groups, the Civil Society Coalition is not represented at all in the Working Group of Diamond Experts, and only Partnership Africa Canada is included in the Working Groups on Statistics and the Working Group on Artisanal and Alluvial Production. I believe that financial resources may be why participation is uneven among the observers of the working group. On the one hand, members of the World Diamond Council pay an annual membership fee to the World

¹¹⁸ I believe that Partnership Africa Canada is more prominently represented in the working groups because it has more expertise and human and financial resources than other members of the Civil Society Coalition. Moreover, Partnership Africa Canada played a significant role in the negotiation of the Kimberley Process in the early 2000s, which could grant the NGO a special status and legitimacy within the certification scheme.

Diamond Council Secretariat, which means that the group has money to support the participation of its members¹¹⁹ in the activities of the working groups.¹²⁰ On the other hand, the Civil Society Coalition does not have access to any financial support, which means that participating NGOs must have the capacity to self-finance their participation in the activities of the working groups.¹²¹

Activities of the Working Groups

The Working Group on Monitoring is responsible for the peer-review mechanism that was adopted in 2006. It conducts review visits in participating countries to ensure that they follow the requirements of the Kimberley Process. Each participating country is supposed to invite the review team approximately every three years. They voluntarily send an invitation to the chair of the Kimberley Process. The team is composed of representatives from participating governments, civil society, and the World Diamond Council.¹²² In some cases, the review visit can be mandatory, as was the case in Venezuela before its re-admittance to the Kimberley Process. At the end of each review mission, the team submits a written report and a list of recommendations to the government of the country and other members of the Kimberley Process. Some of the

¹¹⁹ Only firms that are members of the World Diamond Council can participate in the activities of the working groups through the Kimberley Process Task Force (which is one committee of the World Diamond Council).

¹²⁰ Moreover, I believe that individual members of the World Diamond Council have, at least most of the time, the capacity to self-finance their participation in the activities of the working groups. They also have strong incentives to represent their interests in the working groups because it can directly influence their business.

¹²¹ In addition, some NGOs may lack the required expertise to participate in the activities of the different working groups. This will be further analyzed in Chapter IV.

¹²² Smillie, I. (2012). Blood diamonds, non-state actors and development. The Kimberley Process and beyond. *Business Regulation and Non-State Actors. Whose Standards? Whose Development?* pp. 213-224.

reports, such as the review visit report to the Russian Federation in 2013, are available on the Kimberley Process website. However, most of the reports are not available to the public.¹²³

Table 3: Composition of the Working Groups of the Kimberley Process

The Working Group on Monitoring	
Chair	The European Union
Vice-Chair	Israel
Members	Angola, Australia, Botswana, Cameroon, Canada, the Central African Republic, the Democratic Republic of Congo, Ghana, India, the People's Republic of China, the Russian Federation, South Africa, the United Arab Emirates, the United States of America, Zimbabwe, the African Diamonds Producers Association, World Diamond Council, Civil Society Coalition.
The Working Group of Diamond Experts	
Chair	World Diamond Council
Vice-Chair	/
Members	Australia, Botswana, Brazil, Canada, the People's Republic of China, the Democratic Republic of Congo, the European Union, Ghana, India, Israel, Liberia, Namibia, the Russian Federation, Sierra Leone, South Africa, the United Arab Emirates, the United States of America, Ukraine, Zimbabwe
The Working Group on Statistics	
Chair	The United States of America
Vice-Chair	Vacant
Members	Angola, Botswana, Canada, the Democratic Republic of Congo, the European Union, India, Israel, the People's Republic of China, the Russian Federation, South Africa, Switzerland, the United Arab Emirates, World Diamond Council, Partnership Africa Canada
The Working Group on Artisanal and Alluvial	
Chair	Angola
Vice-Chair	South Africa
Members	Angola, Brazil, Central African Republic, Republic of Congo, Democratic Republic of Congo, Côte d'Ivoire, Guinea, Ghana, Guyana, Liberia, Namibia, Sierra Leone, South Africa, Tanzania, Togo, Venezuela, Zimbabwe, the European Union, the Russian Federation, World Diamond Council, Partnership Africa Canada, the African Diamonds Producers Association
Regional coordinators	Brazil (South America), Sierra Leone (West Africa), the Democratic Republic of Congo (Central and Southern Africa)

¹²³ There exists no information about why certain reports are published and others (most of them) are confidential.

Researchers and NGOs have criticized three aspects of the current monitoring mechanism. First, there is a significant lack of rigorous follow-ups. Once a review team has submitted its recommendations, there is rarely a follow-up visit to ensure that the country took the required actions. Second, the country must invite a review team to monitor its activities. Consequently, the frequency in which each country is reviewed differs significantly from country to country. As of 2013, only 45 countries had received a review visit, and 24 had received a second review visit.^{124, 125} The Kimberley Process is currently not addressing the lack of review. Third, the Kimberley Process Certification Scheme does not have a budget, and the costs of the review are borne by the members of the review team and the inviting state, which means that some actors of the Kimberley Process (some NGOs, but also some governments) have never participated in reviewing the compliance of other participants.¹²⁶ This is particularly problematic when no representatives of civil society participate in the review visit, as was the case with the Russian Federation in 2013.¹²⁷ The lack of participation of some governments and NGOs is directly linked to the lack of financial resources of those actors.¹²⁸ Those three aspects

¹²⁴Mtisi, S. (2016). Guiding notes on creation of a Kimberley Process national tripartite structure in Zimbabwe, improving KPCS compliance monitoring and implementation. *Zimbabwe Environmental Law Association*.

¹²⁵ No additional official information is available to the public. Moreover, the majority of the review visit reports are confidential, so it is impossible to track their participation.

¹²⁶ Mtisi, S. (2016). Guiding notes on creation of a Kimberley Process national tripartite structure in Zimbabwe, improving KPCS compliance monitoring and implementation. *Zimbabwe Environmental Law Association*.

¹²⁷ Some review visit reports could be accessed on the website of the Kimberley Process, including the report of the review visit to the Russian Federation.

¹²⁸ Interview with Ian Smillie on October 13, 2016.

considerably weaken the monitoring mechanism of the Kimberley Process, which can itself endanger the viability of the certification scheme.¹²⁹

The Working Group of Diamond Experts (WGDE) solves technical problems that concern the implementation of the Kimberley Process Certification Scheme.¹³⁰ It is currently working on the harmonization of valuation methodologies.¹³¹ It looks at the technical aspect of diamonds, which goes beyond the Civil Society Coalition's expertise.

The Working Group on Statistics (WGS) prepares statistical reports about diamond trade for official meetings and aims to provide reliable and comparable statistics to participants, working groups, and the public. The WGS has created¹³² a data anomaly questionnaire to identify anomalies ahead of time and ensure the quality of the database. More precisely, it compares data (trade, Kimberley Process Certificate Counts, and production) from the reporting period to data from the previous reporting period and from the corresponding reporting period of the previous year. If there is an increase of 100% or more or a decrease of 80% or more for a participant, it is considered an anomaly, and the

¹²⁹ Smillie, I. (2012). Paddles for Kimberley, an agenda for reform. *Partnership Africa Canada*.

¹³⁰ Kimberley Process Website. Retrieved from <https://www.kimberleyprocess.com/en/diamond-experts-wgde>.

¹³¹ No information could be found on why the Civil Society Coalition is not participating in the Working Group of Diamond Experts. One reason could be that NGOs are not able to engage with the technical details of diamond production because of a lack of expertise. Harmonizing valuation methodologies, for example, requires a strong background in the technical aspect of diamonds, which is not the focus of the NGOs' work.

¹³² The data anomaly questionnaire is the main project of the Working Group on Statistics. Members of this group are also responsible for the development and maintenance of a website that member states can use to transmit data and where official data are available to the public.

members of the working group must reach out to the concerned country to find out what happened.¹³³

The Working Group on Artisanal and Alluvial Production (WGAAP) promotes the implementation of internal controls in alluvial deposits, where workers face significant challenges. The work of the WGAAP relies on discussions and the exchange of best practices. One important aspect of its work is to look at challenges faced by the artisanal and small-scale mining sector and how participating countries could encourage miners to move into the formal economy. The group recommends, for example, strengthening property rights, lowering fees, and increasing accessibility of mining licenses.

¹³³ Kimberley Process website. Administrative decision on the data anomaly questionnaire & process.
https://www.kimberleyprocess.com/en/system/files/documents/AD%20on%20DAQ%20Process_0.pdf.

Chapter IV

The Deterioration of the Process

Partnership Africa Canada and Global Witness played a significant role in raising awareness about conflict diamonds, engaging all relevant stakeholders, and negotiating the certification scheme in the early 2000s. They were granted observer status and could participate in all meetings and activities of this multi-stakeholder initiative. In 2006, the Kimberley Process established the Civil Society Coalition, and other NGOs joined Partnership Africa Canada and Global Witness.

Initially, the Kimberley Process generated interest and enthusiasm from NGOs, governments, and the diamond industry. In less than three years, a multi-stakeholder initiative had been established to address the issue of conflict diamonds, engaging with all relevant parties: key countries producing and consuming diamonds, the diamond industry, and NGOs that had pushed them to take action. Governments and the World Diamond Council acknowledged the importance of including Global Witness and Partnership Africa Canada in the process because of their ability to play the roles of legitimizers, experts, and watchdogs.¹³⁴

Fifteen years later, the situation is very different. The Kimberley Process has become the target of much criticism from NGOs. The Civil Society Coalition decided to boycott the Kimberley Process in 2011 and 2016 because they felt that some participating countries were not considering their concerns and were preventing the certification

¹³⁴ Bieri, F. (2010). The roles of NGOs in the Kimberley Process. *Globality Studies Journal*, 20.

scheme from being adapted to the current context. Moreover, several NGOs, including Global Witness, left the initiative, which they deemed inefficient, to pursue the fight for improved governance from outside the Kimberley Process. The growing tensions between the Civil Society Coalition and some participants have cast doubt on the Kimberley Process and have highlighted the significant differences of opinion among the members about the voluntary certification scheme.

This chapter analyzes the roles that NGOs can still play in the Kimberley Process. It is divided into two sections. The first section will examine why the situation deteriorated between the Civil Society Coalition and the other members of the Kimberley Process. To do so, it will explain why the NGOs decided to boycott the Kimberley Process in 2011 and 2016. The second section will look at the extent to which the current Civil Society Coalition has the capabilities and resources needed to play an effective role in the Kimberley Process.

Boycotts of 2011 and 2016

The Civil Society Coalition decided to boycott the official meetings of the Kimberley Process on two occasions: the plenary meeting in November 2011 in Kinshasa, and the intersessional and plenary meetings in June and November 2016 in Dubai. In both cases, they remained involved in numerous activities that aim to eliminate conflict diamonds, including the working groups of the Kimberley Process.¹³⁵ However, they decided not to attend the official meetings, and as a result, they have not officially

¹³⁵ The current composition of the four working groups of the Kimberley Process can be found on page 39.

shared their concerns and recommendations.¹³⁶ This section describes why the Civil Society Coalition unanimously chose to boycott those three meetings (plenary in 2011, intersessional and plenary in 2016) of the Kimberley Process.

The boycott of 2011

The year 2011 was marked by a controversy over the Marange diamond fields in Zimbabwe. While the Civil Society Coalition was fighting to redefine the term conflict diamond to include diamonds from the Marange fields, most participating countries were trying to lift the ban that the Kimberley Process had imposed on those same diamonds in 2009.

The problem in Zimbabwe began in 2008, when military forces used two attack helicopters to take control of the Marange diamond fields. This involved the killing of freelance artisanal miners, who were working for prospectors who were selling the rough diamonds to producers without paying taxes. Moreover, they forced the local population to extract diamonds to make profits,^{137, 138} and those diamonds were used to fund repressive activities against the opponents of the Mugabe regime.^{139, 140} In addition, Global Witness highlights that the Central Intelligence Organisation (CIO) received off-budget financing from Sam Pa, a businessman based in Hong Kong, in exchange for

¹³⁶ The Civil Society Coalition boycotted the meetings; however, they sent emails to some governments to express their concerns.

¹³⁷ Andersson, H. (2011). Soldiers tell of Zimbabwe diamond field massacre. *BBC*. Retrieved from http://www.bbc.co.uk/panorama/hi/front_page/newsid_9556000/9556242.stm

¹³⁸ No additional information could be found.

¹³⁹ Partnership Africa Canada. (2009). Zimbabwe, diamonds and the wrong side of history. Retrieved from http://www.pacweb.org/Documents/diamonds_KP/18_Zimbabwe-Diamonds_March09-Eng.pdf

¹⁴⁰ Bieri, F. (2009). The quest for regulating the global diamond trade. *Institut Catala Internacional per la Pau Barcelona*.

diamonds and business opportunities in the diamond, cotton, and property development sectors.¹⁴¹

In 2009, the Kimberley Process introduced a ban on diamonds from the Marange fields.¹⁴² One year later, discussions regarding lifting the ban began to emerge among members of the Kimberley Process. During the intersessional meeting of 2011, participants, including Russia, China, and India, tried to lift the ban and authorize diamonds from the Marange mines to be reintroduced.¹⁴³ However, the European Union and the United States blocked that decision because they believed that the requirements of the certification scheme were not respected in the Marange diamond fields.¹⁴⁴ The Civil Society Coalition, which is not allowed to vote, firmly believed that failing to adapt the definition of conflict diamonds to the current context would mean that violence perpetrated in the diamond-producing areas would not be addressed.¹⁴⁵ During the intersessional meeting in June 2011 in Kinshasa, the Civil Society Coalition stated that:

We are appalled by the lack of respect shown to Kimberley Process members by the Zimbabwean Minister and shocked by the Kimberley Process membership's silence in response – not just yesterday but for the past three meetings. The agreement between the Kimberley Process and Zimbabwe being discussed this

¹⁴¹ Global Witness. (2012). Financing a parallel government? The involvement of the secret police and military in Zimbabwe's diamond, cotton and property sectors. Retrieved from <https://www.globalwitness.org/en/archive/financing-parallel-government-Zimbabwe/>.

¹⁴² The official website of the Kimberley Process does not mention the ban on diamonds from the Marange fields, and there is little information on the implementation of the ban. It is important to highlight that the ban does not concern the entire country, only diamonds from the Marange mines.

¹⁴³ Vircoulon, T. (2010). Time to rethink the Kimberley Process: The Zimbabwe case. *Global Policy Forum*. Retrieved from <https://www.globalpolicy.org/the-dark-side-of-natural-resources-st/diamonds-in-conflict/kimberley-process/49573-time-to-rethink-the-kimberly-process-the-zimbabwe-case.html>

¹⁴⁴ A.A. (2011). Kimberley Process: Zimbabwe diamond exports approved. *BBC*. Retrieved from <http://www.bbc.com/news/world-africa-15554609>.

¹⁴⁵ Kimberley Process Civil Society Coalition, Brussels Meeting, November 17-10, 2011. Document received by email.

week falls far short of what is acceptable to maintain the credibility of the Kimberley Process, protect civilians and civil society members living and working in Marange or prevent substantive quantities of illicit diamonds from infecting the global diamond supply chain. (...) For that reason we are expressing a vote of no confidence in the Kimberley Process.¹⁴⁶

The Civil Society felt that its voice was not heard by participants and ended up walking out of the intersessional meeting.

The participating NGOs met two months later in Johannesburg to discuss this issue; they decided to boycott the plenary meeting in November 2011 to show their opposition and put pressure on participants:

The Civil Society Coalition has decided not to participate in the November 2011 Kimberley Process Plenary session. This decision is based on several factors:

1. We have grave concerns about the ability of the Kimberley Process to respond effectively to situations where diamonds are fueling armed violence and gross human rights violations.
2. We remain particularly concerned that this Plenary will likely end all meaningful oversight of Marange, despite ongoing and credible concerns about its compliance and cooperation with the Kimberley Process in meeting minimum standards.¹⁴⁷

The Civil Society Coalition did not participate in the plenary meeting in November 2011, and participants officially lifted the ban on diamonds from the Marange fields because the last review visit determined that two mines met the requirements of the Kimberley Process. The European Union, which had previously blocked the decision, stated:

The EU welcomes in particular the fact that the agreement includes:

1. A renewed commitment by Zimbabwe to address outstanding areas of non-compliance so as to ensure adherence to KP minimum standard for the whole of the Marange area.
2. A credible oversight mechanism including independent elements (KP monitoring team) that allows for unrestricted but monitored export of compliant

¹⁴⁶ Kimberley Process Civil Society Coalition Statement, Kinshasa Intersessional Meeting 23 June 2011. Retrieved from https://www.globalwitness.org/documents/13367/kinshasa_closing_speech_en.pdf.

¹⁴⁷ Kuriyan, V. (2011). "Civil Society to Boycott Kimberley Process Plenary, Demands Major Reform." *Idex online*. Retrieved from <http://www.idexonline.com/FullArticle?Id=35891>.

Marange diamonds, with a view to ensuring that non-compliant Marange diamonds are not traded under the KP Certification Scheme; and

3. A role for civil society, in line with the tripartite structure of the KP, in order to provide transparency on the conditions of KPCS implementation in Marange. The EU recognizes that this agreement is a positive outcome not only for the KP but also for the people of Zimbabwe, enhancing transparency so that they can benefit from the revenues that will derive from the export of their natural resources. The EU urges the Zimbabwean authorities to honor their commitments without further ado.¹⁴⁸

It is important to note that not all diamonds from the Marange mines can be certified.

Two mines in Marange met the requirements of the Kimberley Process, and only diamonds from those mines can be certified.¹⁴⁹ It is, however, difficult to distinguish between diamonds originating from those two mines and diamonds originating from non-compliant mines nearby. It is also interesting to note that even though the European Union agreed to lift the ban on diamonds from the Marange mines, it maintained its sanctions on the Zimbabwe Mining Development Corporation until 2013.¹⁵⁰ To date, Zimbabwe remains a participant in the Kimberley Process, and members of the Kimberley Process have not changed the definition of conflict diamonds.

Two months later, Global Witness, which was one of the leaders of the Civil Society Coalition and played a significant role in establishing the Kimberley Process, left

¹⁴⁸ Ashton, K. (2011). Statement by EU High Representative, Catherine Ashton, on the agreement reached in Kimberley Process regarding Marange diamonds. Retrieved from http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/foraff/125797.pdf.

¹⁴⁹ Waterfield, B. (2011). European Union to lift ban on Zimbabwe's blood diamonds despite torture claims. *The Telegraph*. Retrieved from <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/zimbabwe/8689166/European-Union-to-lift-ban-on-Zimbabwes-blood-diamonds-despite-torture-claims.html>

¹⁵⁰ Global Witness. (2013). Zimbabwe's diamond sector and EU restrictive measures. Briefing for policy makers, January 2013. Retrieved from <https://www.globalwitness.org/sites/default/files/library/Zimbabwe%20restrictive%20measures.pdf>

the initiative because “the Kimberley Process’s refusal to evolve and address the clear links between diamonds, violence and tyranny has rendered it increasingly outdated.”¹⁵¹

This episode marked the beginning of the deterioration of the relationship between the Civil Society Coalition and the Kimberley Process. The issue of Zimbabwe seriously undermined the mutual confidence among industry, states, and civil society.¹⁵²

The boycott of 2016

During the plenary meeting in November 2014 in Guangzhou, Angola was chosen as chair for the year 2015 and the United Arab Emirates as vice-chair.¹⁵³ The Civil Society Coalition expressed its concerns about the suitability of the United Arab Emirates at the plenary meeting in November 2014 that was chaired by China and during the intersessional meeting in June 2015 that was chaired by Angola. Despite the repeated concerns of the Civil Society Coalition, participants formalized the chairmanship of the United Arab Emirates for 2016 at the plenary meeting in November 2015. At the same meeting, the Civil Society Coalition¹⁵⁴ announced that they intended to boycott the chairmanship of the United Arab Emirates in 2016.¹⁵⁵

The Civil Society Coalition had two main issues with the United Arab Emirates’ chairmanship. First, they were concerned about the United Arab Emirates’ valuation

¹⁵¹ Global Witness. (2011). Global Witness leaves Kimberley Process, calls for diamond trade to be held accountable. Retrieved from <https://www.globalwitness.org/en/archive/global-witness-leaves-kimberley-process-calls-diamond-trade-be-held-accountable/>.

¹⁵² Interview with Marie Mueller, representative of BICC, on September 23, 2016.

¹⁵³ The United Arab Emirates was elected as vice-chair for 2015, and, consequently, as chair for 2016.

¹⁵⁴ Members of the Civil Society Coalition in 2015: PAC, GRPIE, CECIDE, Green Advocates, NMJD, RELUFA, CENADEP, GAERN, ZELA, CNRG, International Peace Information Service.

¹⁵⁵ In 2015, Angola was chair of the Kimberley Process and United Arab Emirates was vice chair.

process.¹⁵⁶ The country imports diamonds from African countries and re-exports them at a value that is, on average, 40% higher. The Civil Society Coalition deems this practice of undervaluation problematic because it means that African governments and artisanal miners lose their wealth to the United Arab Emirates.¹⁵⁷ If diamonds were not undervalued, African countries would make a profit, and non-producing countries, such as the United Arab Emirates, would need to reduce their margin and make fewer profits. The Civil Society Coalition tried to engage with this country, without success. During the plenary meeting in November 2015, they made the following statement:

We have asked for an explanation as to why African diamonds are re-exported from Dubai at 40 percent higher than their import values – a simple question for which UAE officials have refused to answer. With competing trading centres averaging a 10 percent markup on re-sorted and re-exported parcels it does make us wonder what Dubai knows about ‘value addition’ that competitors in Antwerp and Tel Aviv don’t know. Faulty valuations go to the heart of the Kimberley Process requirements and the reason why the economic promise of diamonds continue to elude most African governments.¹⁵⁸

Alan Martin, the director of research for Partnership Africa Canada, added that the United Arab Emirates had to change its “harmful diamond trading practices” if it was to be the chair of the Kimberley Process.¹⁵⁹ It needs to be an example and demonstrate good business practices. It is important to highlight, however, that the issue is probably more complex. The export value of diamonds can depend on different factors, including the

¹⁵⁶ The working group of diamond experts work on the harmonization of valuation methodologies, but has not taken up the specific issue of undervaluation by the United Arab Emirates.

¹⁵⁷ Interview with Jaff Napoleon, RELUFA (September 21, 2016).

¹⁵⁸ Opening Remarks by KP Civil Society. (2015). Retrieved from http://pacweb.org/images/Press_Releases/KP_Boycott/KP_Civil_Society_Coalition_Speech_Nov_17_2015_ENpdf

¹⁵⁹ Partnership Africa Canada. (2015). Civil Society boycotts conflict diamonds certification scheme. Retrieved from <http://pacweb.org/en/pac-media/press-releases/253-civil-society-boycotts-conflict-diamonds-certification-scheme>

quality of cutting and polishing, the quality of rough diamonds, and the types of diamonds that are produced. I believe that if the Civil Society Coalition wants to push the issue of undervaluation, it should reformulate its argument and document its concerns with precise and reliable facts about the mechanisms used by the United Arab Emirates. It should also provide recommendations and a detailed comparison of the valuation process of the United Arab Emirates versus the valuation processes of other countries to show how these practices can be harmful.

The second issue that was flagged by the Civil Society Coalition concerned the attitude of the United Arab Emirates toward the coalition. In fact, on many occasions, this country has expressed its willingness to exclude the Civil Society Coalition from the Kimberley Process. Most notably, it publicly asked for the Kimberley Process to “divorce” itself from civil society during a meeting in 2013.¹⁶⁰ Moreover, Peter Meeus, the chairman of Dubai Diamond Exchange, has publicly claimed on many occasions that relationships between Dubai and NGOs have deteriorated because NGOs were trying to tarnish the image of diamonds in order to secure funding, draw attention to their work, and gain legitimacy. More precisely, during the Angola Diamond Centenary Conference in 2013, he said that relationships with NGOs were “below zero” and stories about Zimbabwe were “a terrible and unforgivable lie cooked by some frustrated people within the Civil Society community after they had left the Kinshasa Intersessional.”¹⁶¹ The hostile attitude of the United Arab Emirates was highlighted in the opening remarks of

¹⁶⁰ Opening Remarks by KP Civil Society. (2015). Retrieved from http://pacweb.org/images/Press_Releases/KP_Boycott/KP_Civil_Society_Coalition_Speech_Nov_17_2015_ENpdf.

¹⁶¹ Speech of Peter Meeus during the Angola Diamond Centenary Conference in 2013. The recording of the speech was retrieved from <https://www.youtube.com/watch?v=48hFnJ0FyQE>.

the Civil Society Coalition during the plenary meeting in November 2015, as well as during interviews with representatives of NGOs.¹⁶²

It is in that context that the Civil Society Coalition unanimously decided to boycott the intersessional and plenary meeting of the Kimberley Process in 2016 if the chairmanship of the United Arab Emirates was formalized. They said:

In the coming days, Kimberley Process Participants and industry members are free to formalize UAE's nomination for Chair, but should this come to pass, let us be clear, you will be sending a message that civil society is no longer a meaningful and respected partner at this table. It will send a message to the world that the Kimberley Process no longer has standards; that the lowest common denominator still gets to lead, whatever the reputational and long-term impacts to this initiative. The question will no longer only be about UAE's deficits, but also your commitment to the inclusive and tripartite nature of the Kimberley Process.¹⁶³

A few days later, the United Arab Emirates was named chair of the Kimberley Process. The Civil Society Coalition did not participate in the intersessional meeting in June 2016 in Dubai or the plenary meeting in November 2016 in Dubai. The conclusions reached by the participants during the last plenary meeting are summarized in Chapter V.

The roles of NGOs

NGOs can influence global politics and can help to address global issues through several channels. In 2010, Bieri¹⁶⁴ wrote an article on the role that NGOs can play in

¹⁶² Moreover, Shamiso Mtisi (ZELA) wrote in the report, "Guiding notes on creation of a Kimberley Process national tripartite structure in Zimbabwe: Improving KPCS Compliance Monitoring and Implementation" that the Democratic Republic of Congo and South Africa were also openly hostile to civil society. This paper is in progress, and has not been published yet.

¹⁶³ Opening Remarks by KP Civil Society. (2015). Last consulted on October 9, 2016. Retrieved from <http://pacweb.org>.

¹⁶⁴ Franziska Bieri is a senior researcher at the University of Basel in Switzerland. She wrote several papers on the Kimberley Process and the regulation of diamond trade. She also wrote the book "From Blood Diamonds to the Kimberley Process: How NGOs Cleaned Up the Global Diamond Industry".

multi-stakeholder initiative by looking at how they can act as legitimizers, experts, and watchdogs.¹⁶⁵ First, NGOs can act as legitimizers. Their moral authority and their adhesion to globally shared values and principles allow them to “play the role of moral guardians, keeping states and corporations honest.”¹⁶⁶ Second, NGOs act as experts. Bieri argues that NGOs use “strict information gathering rules and careful documentation,”¹⁶⁷ which grants them an authoritative knowledge and allow them to influence decision-making. Third, NGOs act as watchdogs. They can monitor the activities of an actor (states and/or industry) and use it to influence global politics and put pressures on the international community. Bieri proposes: “NGOs expertise enhances their ability to engage in internal and external watchdogging.”¹⁶⁸ In fact, without expertise, NGOs would not be able to gather credible information to watchdog the activities of an actor. The roles of legitimizers, experts and watchdogs are closely connected. This section will first describe at the extent to which NGOs can act as experts in the Kimberley Process. It will then look at how it could constraint their ability to act as legitimizers and watchdogs.

Experts

The composition of the Civil Society Coalition has changed considerably since 2003. Global Witness, International Alert, and Fatal Transactions left the initiative to continue their fight against conflict diamonds from outside the Kimberley Process. As explained earlier, Global Witness left the Kimberley Process because of the Process’s

¹⁶⁵ Bieri, F. (2010). “The Roles of NGOs in the Kimberley Process.” *Globality Studies Journal*, 20. The following sub-section is based on this article.

¹⁶⁶ Ibid.

¹⁶⁷ Ibid, page 3.

¹⁶⁸ Ibid, page 3.

inability to adapt to the current context and take actions against Zimbabwe. Fatal Transactions left the Kimberley Process because it had become too technical and preferred to continue its campaign within another structure. Sargentini, a senior manager of Fatal Transactions, said, “As for the Kimberley Process we said as far as it goes with technical details we back off. It’s impossible to follow. And it’s not for campaigning, it’s not the most interesting.”¹⁶⁹ This helps to explain why other international NGOs did not join the Kimberley Process. I believe that NGOs might fear that being associated with the Kimberley Process, including the diamond industry and some producing countries, could have a negative impact on the donations that they receive. They may also believe that their resources would be better allocated if used outside the Kimberley Process.

The departure of those NGOs undermined the ability of the Civil Society Coalition to act as experts. These NGOs had financial resources, political leverage, and a strong background in conflict diamonds, which was valuable to the Kimberley Process. They collected detailed information about the situations in conflict-affected areas and knew the challenges faced by artisanal miners in Africa. Their expertise was useful to strengthen the Kimberley Process and safeguard the certification scheme.

Other NGOs have joined the Kimberley Process, with less financial and human resources and different backgrounds. Ten NGOs are currently part of the Civil Society Coalition. Four of those NGOs do not have an official website, which highlights the lack of resources. Out of the six NGOs that have a website, only four directly mention the Kimberley Process and/or the issue of conflict diamonds. Moreover, only two of those NGOs have specific expertise in the issue of conflict diamonds; the others have

¹⁶⁹ Bieri, F. (2010). The roles of NGOs in the Kimberley Process. *Globality Studies Journal*, 20. Also available from <https://gsj.stonybrook.edu/wp-content/uploads/2010/11/0020Bieri.pdf>

experience with minerals but not with conflict diamonds. This significantly constrains the extent to which the Civil Society Coalition can produce good quality reports to inform the members of the Kimberley Process. NGOs also started to focus on issues that are less relevant to the certification scheme. The combination of these factors reduced their ability to voice their concerns. In 2000, Global Witness and Partnership Africa Canada produced detailed reports and they had a powerful impact on governments and the diamond industry. In 2015, the Civil Society Coalition focused on the practice of undervaluation of the United Arab Emirates. They did not provide any specific evidence and did not explain how those practices can hurt other countries, and their report had little impact on the Kimberley Process.

However, one NGO continues to produce detailed reports that are valuable to the Kimberley Process. In December 2016, Partnership Africa Canada published a report called “From Conflict to Illicit: Mapping the Diamond Trade from Central African Republic to Cameroon.”¹⁷⁰ A few days later, the chair of the Kimberley Process officially acknowledged the importance of the report:

In response to the report from Partnership Africa Canada (PAC) detailing the entry of conflict diamonds from the Central African Republic (CAR) via international markets into Cameroon, the UAE KP Chair, Ahmed Bin Sulayem, has recognized the findings and reiterated calls for more dedicated resources to look into and address these types of issues. (...). Last but not least, the KP Chair confirmed full agreement with the PAC study recommendation to the Governments of CAR and Cameroon to revoke the trading licenses of individuals and companies that engage in any illicit trade; to make sure that the channels of authorized exports from compliant Zones are used to bring the CAR back to normalization; and to hold to account those who, until now, have been able to operate without impunity.¹⁷¹

¹⁷⁰ Partnership Africa Canada. (2016). From conflict to illicit: Mapping the diamond trade from Central African Republic to Cameroon.” Retrieved from <http://pacweb.org/images/PUBLICATIONS/from-conflict-to-illicit-eng-web%202.pdf>.

¹⁷¹ UAE Chair. (2016). UAE KP Chair acknowledges importance of and recognizes PAC report on conflict of diamonds entering international market via Cameroon. *UAE KP Chairmanship website*.

To my knowledge, no other NGO included in the Civil Society Coalition has published a report on the situation of conflict diamonds in the past four years. If Partnership Africa Canada has the only financial and human resources and/or expertise, the Civil Society Coalition cannot really act as an expert. This may also explain why only Partnership Africa Canada is involved in the Working Group on Statistics and the Working Group on Artisanal and Alluvial Production. If the Civil Society Coalition continues working with the Kimberley Process, it will be necessary to also include experienced NGOs that can efficiently challenge the members of the Kimberley Process and have the resources to produce powerful reports. This does not mean, however, that the other NGOs that are included in the Kimberley Process have no expertise or are not useful to the Kimberley Process; they can, for example, provide valuable information about the challenges faced by the populations in their countries. They also have a different type of expertise; for example, some of the NGOs specialize in labor rights and environmental consequences of mining.

Legitimizers

The extent to which the Civil Society Coalition plays the role of legitimizer within the Kimberley Process has changed substantially. First, several NGOs, including Global Witness, International Alert, and Fatal Transactions decided to leave the Kimberley Process because of its failure to address issues that they deemed as important, such as the controversy of the Marange fields and the lack of actions in the Central African Republic and Venezuela. In 2011, the director of Global Witness stated:

The scheme has failed three tests: it failed to deal with the trade in conflict diamonds from Cote d'Ivoire, was unwilling to take serious actions in the face of the blatant breaches of the rules over a number of years by Venezuela and has

proved unwilling to stop diamonds fueling corruption and violence in Zimbabwe. It has become an accomplice to diamonds laundering—whereby dirty diamonds are mixed in with clean gems.¹⁷²

The departure of Global Witness, which was key to granting legitimacy to the Kimberley Process in the 2000s, highlighted the discontent of NGOs. It also made clear that the support of the Civil Society Coalition was not unconditional. However, the departure of those NGOs did not delegitimize the Kimberley Process: consumers continued to buy diamonds, and few people knew that Global Witness and other NGOs had decided to leave the initiative.

Second, the lack of expertise of NGOs has undermined the legitimacy of the Civil Society Coalition. As explained earlier, their reports are less detailed and are not always based on reliable facts and evidence. They also focused on issues that were not directly linked to the Kimberley Process, such as the issue of undervaluation of the United Arab Emirates. This contributed to discredit the concerns of the Civil Society Coalition. The United Arab Emirates stated in November 2016, during the plenary meeting:

The Plenary reaffirmed its commitment to the tripartite structure of the Kimberley Process. Noting that the Civil Society Coalition decided not to attend Kimberley Process meetings this year due to a number of concerns, the Plenary expressed its desire for broad Civil Society Coalition participation in the future.¹⁷³

However, the chair of the Kimberley Process also said:

I also urge a broader group of fellow international and credible NGOs to join the Kimberley Process—be it Amnesty, Human Rights Watch, Global Witness—to be part of the future of the diamond industry; rather than to allow a single NGO

¹⁷² Global Witness. (2011). Global Witness leaves Kimberley Process, calls for diamond trade to be held accountable. Retrieved from <https://www.globalwitness.org/en/archive/global-witness-leaves-kimberley-process-calls-diamond-trade-be-held-accountable/>.

¹⁷³ Kimberley Process website. (2016). Final communiqué-the Kimberley Process Plenary Meeting.

individual¹⁷⁴, to hold the Kimberley Process and the World Diamond Council to ransom.¹⁷⁵

This suggests that the United Arab Emirates recognizes the legitimacy of Partnership Africa Canada, but not the legitimacy of the Civil Society Coalition.

Watchdogs

Theoretically, NGOs can act as watchdogs both from outside and within the Kimberley Process. In the early 2000s, NGOs had the capacity to efficiently watchdog the diamond industry and governments: Global Witness and Partnership Africa Canada produced detailed reports that were credible and acknowledged by governments and the diamond industry. Their findings and recommendations were largely publicized and pushed key actors to take actions. The situation is now totally different. Three different factors have affected the ability of the Civil Society Coalition to watchdog the Kimberley Process: the issue of conflict diamonds is not publicized anymore, and governments give less credit to their concerns.

First, the compelling issue of blood diamonds is no longer front and center, and this affects the ability of NGOs to be heard by the public. Ian Smillie said:

It is yesterday's news, so while the NGOs can get a bit of press on the issue of the day, it isn't enough to embarrass anyone into action. They lost the fight against having the United Arab Emirates chair the Kimberley Process this year, but they continue to fight the battle after everyone has left the battlefield, and they seem unable to make a compelling case for their concerns outside a small group of people who know the details—it's like insider baseball: very complicated and not very interesting except to the cognoscenti.¹⁷⁶

¹⁷⁴ Reference is made to Partnership Africa Canada.

¹⁷⁵ Kimberley Process website. (2016.) Final communiqué-the Kimberley Process Plenary Meeting.

¹⁷⁶ Interview with Ian Smillie on October 13, 2016.

Consequently, it is difficult for NGOs to put pressure on participants and the diamond industry. If no one listens to the findings of NGOs, then they cannot efficiently play the role of watchdogs. I believe that the lack of public interest may force the Civil Society Coalition to use a more aggressive approach to elevate their concerns, which can increase tensions between NGOs and governments. Moreover, as explained earlier, the number of independent reports about conflict diamonds and the Kimberley Process has significantly decreased over the past few years.

Second, recent events have shown that the participants do not always consider the recommendations of the Civil Society Coalition. This was the case, for example, with Venezuela and the Ivory Coast: NGOs claimed that diamonds were illegally smuggled, but the participants failed to take the steps necessary to solve this issue. A few years later, participants did not listen to the warnings of the Civil Society Coalition, which resulted in a boycott of the 2011 plenary session. More recently, NGOs boycotted the official meetings of the Kimberley Process in 2016 because of disagreements with the chair. Those examples highlight the challenges that the Civil Society Coalition encounters in making its voice heard within the Kimberley Process. It is difficult to act as watchdogs if the recommendations are not considered.

In conclusion, it can be said that the deterioration of the relationship between NGOs and the members of the Kimberley Process has indirectly undermined the extent to which the Civil Society Coalition can play the role of expert, legitimizer, and watchdog in the Kimberley Process. It pushed several NGOs to leave the initiative, which diminished the expertise of the Civil Society Coalition. The current Civil Society Coalition includes mostly NGOs that have few resources and little background in conflict diamonds and are less able to efficiently challenge the members of the Kimberley Process.

Chapter V

Has a Point of no Return Been Reached?

When looking at the future of the Kimberley Process, two aspects must be considered. First, can the quality of the relationships among the actors of the Kimberley Process be improved? If not, can the Kimberley Process continue without the Civil Society Coalition? Second, if the scope and strength of the Kimberley Process do not change, will the international community opt for stronger actions and/or the creation of new initiatives that would supersede the current certification scheme?

The first section will look at the plenary session of 2016 and what it means for the collaboration between NGOs, governments, and the World Diamond Council. It will begin with the initiatives that were introduced during the plenary meeting. It will then look at the potential impact that the chairmanship of Australia, the European Union, and India could have on the multi-stakeholder initiative. The second section will look at the future of the Kimberley Process. It will first look at whether the Kimberley Process remains useful, and it will then explain why a new initiative could potentially be developed by the international community to regulate the diamond value chain.

The plenary meeting of November 2016

During the plenary meeting, participating countries made important decisions regarding the internal structure of the Kimberley Process. The United Arab Emirates, which was the chair, made some interesting proposals: the creation of a common fund for NGOs, the

establishment of a permanent secretariat, and the development of workshops and forums on the valuation of diamonds. Moreover, for the first time in the history of the Kimberley Process, two vice-chairs for 2017 and 2018 were elected. The World Diamond Council highlighted that if Australia (the chair for 2017), the European Union (the vice-chair for 2017), and India (the vice-chair for 2018) work together, they can enhance the consistency of policies and activities for the long term.¹⁷⁷ This can have important implications for the quality of the relationship between NGOs, the diamond industry, and participating countries.

Initiatives introduced during the plenary meeting

The Civil Society Coalition decided to boycott the chairmanship of the United Arab Emirates in 2016.¹⁷⁸ It is unclear whether the United Arab Emirates tried to meet with NGOs throughout the year, but the NGOs complained that the chair did not make any significant effort to reach out to them; the chair claimed that it sent official messages to the Civil Society Coalition and liaised with the World Diamond Council to reach NGOs on several occasions.¹⁷⁹ Regardless of what happened throughout the year, the United Arab Emirates tried to ameliorate the situation with the NGOs. The reactions of the World Diamond Council and some governments, emphasizing the importance of the

¹⁷⁷ Polyakov, A. (2016). World Diamond Council speech. Retrieved from <https://www.worlddiamondcouncil.org/component/k2/item/98-world-diamond-council-welcomes-australia-as-the-2017-kimberley-process-chair-and-the-eu-and-india-as-kp-vice-chairs>.

¹⁷⁸ More information on the boycott can be found in Chapter IV.

¹⁷⁹ Opening speech of Mr. Bin Sulayem. (2016). Retrieved from <https://www.uaekpchair2016.com/blog/2016/11/15/uae-kp-chair-holds-meetings-with-civil-society-organisations-at-kp-plenary-meeting-2016>.

tripartite nature of the Kimberley Process, may have pushed the chair to work on its relationship with the Civil Society Coalition and calm the situation.

During the plenary meeting in 2016, the United Arab Emirates expressed its willingness to collaborate with NGOs:

We would like to encourage the Civil Society Coalition to take the lead of their peers to re-engage in discussions as we continue to have an open door policy to their participation and strongly believe that the KP is strongest when it lives up to its collaborative tripartite structure.¹⁸⁰

It also made three interesting proposals that could contribute to restoring the relationship between NGOs and the other actors in the Kimberley Process. First, it suggested the creation of a common fund of \$105,000 to help NGOs participate more actively in the official meetings and activities of the working groups. The United Arab Emirates contributed \$25,000 toward the creation of this common fund, Australia is expected to contribute to the same amount, and the diamond industry and other participating countries should make up the remaining amount.¹⁸¹ This proposal highlights the willingness of the United Arab Emirates and other participating countries to support the participation of NGOs in the different activities of the working groups, including the monitoring visits. As highlighted in Chapter IV, over the past few years a lack of financial resources has constrained the participation of civil society in the review visits. By creating a common fund, the United Arab Emirates and other participating countries aim to strengthen the effectiveness of the Kimberley Process.

¹⁸⁰ Ibid.

¹⁸¹ United Arab Emirates chairmanship website. (November 2016). KP Plenary reaches historic agreement on Permanent Secretariat and NGO fund proposals by UAE KP Chair. Retrieved from <https://www.uaekpchair2016.com/blog/2016/11/20/kp-plenary-reaches-historic-agreement-on-permanent-secretariat-and-ngo-fund-proposals-by-uae-kp-chair>.

Second, the United Arab Emirates recommended the establishment of a permanent secretariat. This would strengthen the effectiveness of the Kimberley Process by facilitating the implementation of a long-term strategy and empowering the stability of the structure of the Kimberley Process. This proposition, as well as the creation of a common fund for NGOs, will go before the UN General Assembly in the next few months.¹⁸²

Third, the United Arab Emirates decided to facilitate a series of discussion workshops about the valuation of diamonds, which was one of the main areas of disagreement between the Civil Society Coalition and the chair of the Kimberley Process. It established a series of special forum workshops where participants and observers could discuss topics that are related to the diamond production but are not the direct focus of the Kimberley Process.¹⁸³ The chair of the World Diamond Council stated that “one of the main topics for discussion at this plenary was valuation of diamonds. Clear assessment procedures of valuations are the basis for out market transparency.”¹⁸⁴ This initiative highlights the willingness of the United Arab Emirates to discuss this sensitive issue with NGOs. The Civil Society Coalition, however, views the initiative with concern and suspicion; it wrote a letter, which was published on the website of Partnership Africa Canada, to the chair of the Kimberley Process in November 2016:

The Coalition notes with interest the efforts by the UAE to begin a discussion on the complex topic of the diamond valuation, including ways to ensure more

¹⁸² Ibid.

¹⁸³ World Diamond Council. (November 2016). Closing remarks. Retrieved from <https://www.worlddiamondcouncil.org/component/k2/item/97-kimberley-process-2016-plenary-meeting-wdc-president-andrey-polyakov-closing-remarks>.

¹⁸⁴ Interview with the chair of the World Diamond Council, November 2016. Retrieved from <http://www.telegraph.co.uk/business/2016/11/18/blood-diamonds-synthetics-and-ethical-supply-the-diamond-industry/>.

accurate and fair market valuation for diamonds. We note with concern, however, the lack of sufficient consideration given to the dynamics of artisanal diamond valuation or to policies and practices in trading and manufacturing centres to address price manipulations that negatively impact African producers. (...) Finally, it remains unclear what concrete outcomes are envisioned from the valuation seminars that will address broader concerns about value manipulations in the diamond chain.¹⁸⁵

The response of the chair of the Kimberley Process is not publicly available. The first series of seminars was organized during the week of the plenary meeting in November 2016. The United Arab Emirates encouraged Australia, the 2017 chair, to continue efforts toward a common approach to valuation.

Those three initiatives could strengthen the relationship between NGOs and the other actors of the Kimberley Process in the long term. The Civil Society Coalition remains skeptical about the efficiency of those proposals, but Australia, the 2017 chair, may be able to build on it and bring together the three categories of actors.

The chairmanship of Australia, the European Union and India

The Civil Society Coalition largely debated the chairmanship of the United Arab Emirates; it feared that the chair would not listen to their concerns and recommendations and felt that they would not be welcomed at official meetings. Those concerns led to a boycott of the official meetings of the Kimberley Process in 2016. It is hoped that Australia, the 2017 chair of the Kimberley Process, can improve the quality of interactions between the Civil Society Coalition and the other actors of the Kimberley Process for two main reasons.

¹⁸⁵ Letter to the Chair of the Kimberley Process. (November 2016). Retrieved from <http://pacweb.org/fr/pac-media/press-releases/267-despite-last-minute-overtures-civil-society-boycotts-conflict-diamond-meeting-in-dubai>.

First, Australia is an ally of the Civil Society Coalition and has a good relationship with NGOs. It supports, for example, the willingness of NGOs to broaden the definition of conflict diamonds to include human rights.¹⁸⁶ It can contribute to rebuilding confidence among participants and observers of the Kimberley Process. If NGOs trust the chair of the Kimberley Process, it is easier to create an atmosphere for fruitful discussions and bring all parties back to the negotiating table.

Second, Australia is one of the largest diamond producers and exporters, which has two important implications. A producing country has a deep knowledge of the supply chain and the challenges that are linked to both the production and export of diamonds. This technical knowledge allows a country to fully understand the economic consequences of the voluntary certification scheme and the technical aspect of any new reform that would be adopted by the participants. For example, Australia is more likely to understand the impact that a broadened definition of conflict diamonds can have on the national economy.¹⁸⁷ Furthermore, it may be easier for an exporting country (such as Australia) to establish a dialogue with other exporting countries (such as South Africa and Tanzania) that might be affected by the financial consequences of enlarging the scope of the Kimberley Process. When two parties share the same concerns and challenges, a climate of trust is likely to be created.

In other words, Australia is a country that can reach both the Civil Society Coalition and exporting countries. This can, in turn, improve the quality of the

¹⁸⁶ Interview with Marie Mueller on September 23, 2016.

¹⁸⁷ It is important to realize that Rio Tinto owns the Argyle diamond mine, which is the biggest mine in Australia. The diamond lobby can thus have significant financial interests at stake, and consequently, can potentially influence the government with respect to the scope of the Kimberley Process.

relationship between NGOs and exporting countries.¹⁸⁸ In addition, in November 2016, participating countries elected the European Union as vice chair for 2017 and India¹⁸⁹ for 2018.¹⁹⁰ This is the first time that the participants of the Kimberley Process nominated a country two years ahead of time. The World Diamond Council believes that this can improve the efficiency of the Kimberley Process. It stated:

On behalf of the WDC and all its members, I would like to congratulate the EU and India as well, with their election as the KP Vice-chairs. We believe a consensus choice of two Vice-Chairs for 2017 and 2018 at one meeting to be an extremely important precedent. It will allow the KP to look ahead even further, empowering the stability and consistency of the organization.¹⁹¹

The Civil Society Coalition considers the European Union an ally and often turns to it when it wants to voice a concern or convey a message to the rest of the Kimberley Process.¹⁹² The relationship between India and the Civil Society Coalition is less clear. NGOs never complained about the chairmanship of India in 2008; however, they have very different views on several topics, including the inclusion of human rights in the definition of conflict diamonds. Nevertheless, both participants are important actors in the international scene and have significant political leverage. They are also important diamond exporters and importers.

¹⁸⁸ To date, the relationship between the Civil Society Coalition and importing countries is not problematic. Importing countries have no economic reason to block the willingness of NGOs to increasing the scope of the Kimberley Process, they are thus less likely to be in conflict with the Civil Society Coalition.

¹⁸⁹ India is one of the biggest diamond producers.

¹⁹⁰ The European Union and India worked together as chair and vice-chair in 2007.

¹⁹¹ Polyakov, A. (2016). World Diamond Council speech. Retrieved from <https://www.worlddiamondcouncil.org/component/k2/item/98-world-diamond-council-welcomes-australia-as-the-2017-kimberley-process-chair-and-the-eu-and-india-as-kp-vice-chairs>.

¹⁹² Interview with Farai Maguwu (Center for Natural Resource Governance) on September 20, 2016.

The year 2017 will be critical for the future of the Kimberley Process. If Australia does not manage to bring actors of the Kimberley Process together, its effectiveness will be seriously jeopardized. In fact, as seen in Chapter IV, the Kimberley Process rests on its tripartite structure. If NGOs decide to definitively leave the process, it will send a strong negative message to the public and may force governments to impose stronger regulations outside the Kimberley Process.

However, even if Australia manages to restore the mutual confidence among the members in the short term, the specific points of conflict among members will not be easily resolved. Members of the Kimberley Process have a very different vision of the mission of the Kimberley Process. The following points are controversial:

- Should the certification scheme cover cut and polished diamonds, or should it focus only on rough diamonds?
- Should the certification scheme deal with illegal diamonds?¹⁹³
- Should the certification scheme oversee the different valuation process of its participants?
- Should the certification scheme be responsible for minimizing human rights abuses that are linked to diamonds?

Failing to reach a long-term agreement about whether the scope of the certification scheme should be broadened could compromise the future of the Kimberley Process.

¹⁹³ The term illegal diamonds encompasses diamonds that are smuggled nationally (into cutting and polishing centers, which are never covered by the Kimberley Process) and internationally (cross-borders) and diamonds that are used to launder money.

Can the Kimberley Process continue without the NGOs?

If Australia does not manage to restore the relationship between the Civil Society Coalition and the rest of the Kimberley Process, the Civil Society Coalition is likely to walk out of the Kimberley Process. I believe that two factors can help to determine whether the Kimberley Process can continue without the NGOs: if the NGOs leave the Kimberley Process, will the Kimberley Process be discredited and hurt the industry? If the NGOs leave the Kimberley Process, will it prevent the certification scheme from working because of a lack of expertise?

I do not believe that the departure of the Civil Society Coalition would discredit the Kimberley Process for two main reasons. First, the departure of Global Witness, which was key in granting legitimacy to the certification scheme, did not affect the credibility of the Kimberley Process with the public. People continued to buy diamonds and the media did not highly publicize it. Second, the Civil Society Coalition participated in two boycotts, in 2011 and 2016, to show their discontent. However, there is no mention of those boycotts on the official website of the Kimberley Process and there is little information available online. This means that the ability of NGOs to engage with the public to put pressure on governments and the diamond industry has greatly diminished compared to the early 2000s. Consequently, the departure of the Civil Society Coalition is unlikely to significantly discredit the Kimberley Process.

I believe that the Civil Society Coalition currently plays two main roles in the Kimberley Process: it can collect information to support the activities of the Kimberley Process, and it can monitor the compliance of countries during the review visits. In both cases, the departure of the Civil Society Coalition would not prevent the multi-stakeholder organization from working. First, NGOs, and in particular Partnership Africa

Canada, can continue to write independent reports from outside the Kimberley Process. They would not be able to directly convey their message during official meetings, but they could send their findings to participants who are likely to listen to them, such as the European Union and the United States. Second, as explained earlier, NGOs did not participate in all review visits. This means that monitoring reviews could continue without the Civil Society Coalition. It is important to highlight, however, that most review reports are not publicly available; it is thus difficult to analyze whether the quality of the reports is higher when the Civil Society Coalition participates in the review visits.

In short, I believe that the Kimberley Process can take two different paths with respect to the Civil Society Coalition. First, the composition of the Civil Society Coalition can change to include experienced NGOs that have the resources to efficiently provide the members of the Kimberley Process with reliable information. Second, it can continue without the Civil Society Coalition and rely on independent reports to identify potential gaps in the compliance of the participating countries.

The Future of the Kimberley Process

If the relationship between NGOs and the rest of the Kimberley Process does not improve, the future of the Kimberley Process could be compromised. The dissolution of the Civil Society Coalition would severely harm the reputation of the Kimberley Process, whose legitimacy was initially based on its tripartite structure. Moreover, two other aspects must be taken into consideration when looking at the future of the Kimberley Process. First, the share of conflict diamonds has been decreased to less than one

percent.^{194, 195} This raises the question of whether the Kimberley Process is still useful.

Second, the scope of the Kimberley Process is limited, and other initiatives could be developed to address current challenges. This section will address those two questions and propose ideas for further consideration.

Is the Kimberley Process still useful?

It is extremely difficult to quantify the share of conflict, illegal, and legal diamonds because of the lack of available data. Conflict diamonds are said to represent less than one percent of the total diamond production, compared to more than 15 percent in the late 1990s.¹⁹⁶ This raises questions about the usefulness of the Kimberley Process in the current context: if the share of conflict diamonds is close to null, what is the value of the certification scheme? Should participants continue to dedicate time and money to the development of this tripartite initiative if conflict diamonds are not an issue anymore?

I believe that the Kimberley Process remains useful, even if the share of conflict diamonds has significantly decreased. First, the Kimberley Process is a relatively young initiative, and its foundations need to be strengthened. Internal controls remain weak in some countries, and a lot is yet to be achieved. For example, alluvial mining production is far from being controlled; its working group was created a few years ago, and it will need more time to address this issue. Moreover, diamonds remain at risk of being appropriated because of their physical characteristics. The lack of regulation means that it would be

¹⁹⁴ Kimberley Process website. No information could be found on how they calculate the share of conflict diamonds.

¹⁹⁵ The Civil Society Coalition does not publicly challenge that percentage. However, it believes that some diamonds that are currently defined as conflict-free should be included in that percentage.

¹⁹⁶ Partnership Africa Canada website. Conflict diamonds today. Retrieved from <http://www.pacweb.org/en/conflict-diamonds-today>.

easier for individuals to illegally appropriate diamonds, which could lead to the same kind of issues as 20 years ago. Second, just because the share of conflict diamonds is said to have decreased to less than one percent does not necessarily reflect the reality. As explained earlier, several reports highlighted issues of smuggling and illegal trading; it is extremely difficult to account for all diamonds.¹⁹⁷ Third, one percent of the total diamond production still represents a significant amount of money that can be used to fund violent activities and should be regulated. This is the reason why the Kimberley Process may be forced to adapt to new challenges in the future.

Should a new initiative be developed?

The Kimberley Process does not address all challenges that are linked to diamond production. This is why some people believe that the scope of the certification scheme should be broadened. It is unlikely, in my opinion, that participants will agree to strengthen and increase the scope of the Kimberley Process. As explained earlier, significant financial interests are at stake, and some governments will always block such decisions. However, one aspect of diamond production can push the international community into taking stronger actions and/or creating new initiatives: the potential link between illegal diamonds and terrorism.

In 2003, Global Witness published a report called “For a Few Dollars More: How al Qaeda Moved Into the Diamond Trade.” The report “shows how the corrupt regime of President Charles Taylor of Liberia facilitated access for al Qaeda operatives into Sierra Leone and Liberia in exchange for diamonds and weapons. It also presents evidence to

¹⁹⁷ It is difficult to determine whether diamonds that are illegally traded are used to fund conflicts. However, the issue of illegal diamonds should be addressed regardless of how the associated profits are spent. Taxes are not collected on diamonds that are illegally traded, which means that tax revenues cannot be used for the development of the country (for example, investment in infrastructure).

show how al Qaeda took advantage of the same illicit diamond trading structures being utilized by Lebanese terror group Hizbullah.”¹⁹⁸

Ten years later, the link between diamonds and terrorist financing remains a problem. The Financial Action Task Force (FATF) wrote a 150-page report called “Money Laundering and Terrorist Financing Through Trade in Diamonds.”¹⁹⁹ It recognizes the efforts already taken on national and international levels by the diamond industry to prevent the risks of money laundering and terrorist financing; however, it emphasizes that the international diamond trade has changed considerably, which influences the risks and vulnerabilities of that sector. The structure of the market is completely different: De Beers lost its monopoly over diamond production, and the number of online retailers has significantly increased. According to the FATF, the following aspects need to be considered:

De Beer no longer holds the same all inclusive diamonds monopoly; A number a smaller diamond dealers have entered the market; Distribution channels have become more diverse; New trade centers have emerged with billions of dollars’ worth of diamonds, and financial transactions go in and out of newly funded bourses and their ancillary financial institutions; Cutting and polishing²⁰⁰ has shifted (except for the most valuable stones) from Belgium, Israel and the US mainly to India and China, with smaller cutting centres emerging; Cash transactions are still prevalent but the usage of cash is diminishing. The internet, as in all other facets of life, is rapidly taking its place as a diamonds trading platform.²⁰¹

¹⁹⁸ Global Witness. (2003). Press release: For a few dollar\$ more: How al Qaeda moved into the diamond trade. Retrieved from <https://www.globalwitness.org/en/archive/few-dollar-more-how-al-qaeda-moved-diamond-trade/>.

¹⁹⁹ FATF. (2013). Money laundering and terrorist financing through trade in diamonds. *Egmont Group of Financial Intelligence Units*. Retrieved from <http://www.fatf-gafi.org/media/fatf/documents/reports/ML-TF-through-trade-in-diamonds.pdf>.

²⁰⁰ The Kimberley Process does not deal with cutting and polishing centers. Only rough diamonds are included in the term ‘conflict diamond’.

²⁰¹ Ibid, pages 5-6.

The Forum on Diamond Trafficking and Illicit Trade,²⁰² hosted by Europol, took place in June 2016. The deputy director of Europol said:

Europol is interested in this topic from several angles – robbery crimes, money laundering, and terrorist financing activities – due to the high value and portability of diamonds. Precious stones and gold are still readily liquid and moveable assets that can be easily traded and transported over borders.²⁰³

Finally, in July 2016, the FBI released a short audio message that stated: “The FBI is leading an effort to identify and mitigate the way criminals could use diamonds to launder money, finance terrorism, and other nefarious crimes.”²⁰⁴ The recent interest in the potential link between diamonds and terrorist financing shows that this issue needs to be addressed.²⁰⁵

More precisely, I believe that it could put pressure on the Kimberley Process to include cutting and polishing centers, which are at risk of money laundering and terrorist financing.²⁰⁶ Currently, the Kimberley Process only covers rough diamonds; consequently, increasing the scope of the certification scheme might be necessary to prevent diamonds from financing terrorists. I believe that broadening the definition of conflict diamonds would be a first step, but this will not be enough. Europol, the State Department, and the FBI are likely to start an initiative on their own, which would cover not only diamonds, but

²⁰² The content of the discussions held during the three-day forum has not been made public.

²⁰³ Europol. (2016). “Press release: FBI and Department of State Announce a Global Law Enforcement Forum on Diamond Trafficking and Illicit Trade, Hosted by Europol.” *Europol website*.

²⁰⁴ FBI. (2016). Audio: FBI This Week: FBI counters illicit diamond trafficking and trade. Retrieved from <https://www.fbi.gov/audio-repository/fbi-counters-illicit-diamond-trafficking-and-trade.mp3/view>.

²⁰⁵ The perceived increase of terrorist attacks in Europe might contribute to raising awareness about terrorist financing.

²⁰⁶ FATF. (2013). Money laundering and terrorist financing through trade in diamonds. *Egmont Group of Financial Intelligence Units*. Retrieved from <http://www.fatf-gafi.org/media/fatf/documents/reports/ML-TF-through-trade-in-diamonds.pdf>.

also gold and other valuable minerals. Terrorist financing is a complex issue that requires specific expertise. The involvement of experts in money laundering and terrorist funding may be necessary; such initiatives would not supersede the current certification scheme, but would complement the current efforts made by members of the Kimberley Process.

Conclusion

This graduate thesis aimed to understand the extent to which NGOs can still play an active role in the Kimberley Process. It looked at internal and external factors that can constrain or enhance the ability of NGOs to act as legitimizers, experts, and watchdogs. The first part briefly goes over the link between the Kimberley Process and the so-called resource curse. The second part of this conclusion summarizes the factors that contributed to the deteriorating relationship between NGOs and others involved in the Kimberley Process. The third part looks at the roles that NGOs can play in the multi-stakeholder initiative and the consequences that this may have for the future of the Kimberley Process. Finally, suggestions for further research are discussed.

The discovery of natural resources can have a significant impact on the economy of a country: it creates jobs and represents an additional source of income for the government. However, some countries face challenges linked to those natural resources, which include lower rates of economic growth and economic stability, unsatisfactory regimes and the lack of good governance, and the onset of conflicts, often with increased severity and duration. When a country does not manage to benefit from its natural resources, we say that it suffers from the so-called resource curse. One significant factor to determine the reaction of a country to the discovery of natural resources is the quality of its institutions. A country with poor political and fiscal institutions is more likely to face challenges associated with the discovery of natural resources.

The Kimberley Process is a multi-stakeholder initiative created in the early 2000s in response to the increasing problem of conflict diamonds in several African countries. It

aims to regulate the supply chain in order to prevent rebels from trading diamonds: participating countries have to establish mechanisms that can control their production and ensure that they are conflict-free. Theoretically, the Kimberley Process could, partially, help countries to benefit from their endowment in diamonds. First, it breaks the link between diamonds and conflicts. Second, it forces governments to review the way in which they oversee diamond production and, consequently, increases their share of diamonds traded on the legal market. This means that the government can collect more income and invest it in the development of the country. However, conflict diamonds are only one challenge those countries face. The Kimberley Process does not improve the quality of institutions and does not solve any other challenge associated with natural resources. Consequently, diamond-producing countries will not be able to benefit from their endowment in diamonds unless they implement policies to deal with other types of challenges.

The Kimberley Process looks at the issue of conflict diamonds from different perspectives: governments, the diamond industry, and the Civil Society Coalition. The tripartite nature of the Kimberley Process is frequently highlighted: on the official website, in the media, and in research papers. However, in practice, the story is different. Even though the diamond industry and the Civil Society Coalition can participate in all official meetings of the Kimberley Process, they cannot participate directly in decision-making because they do not have the right to vote. Their observer status prevents them from making any official decision in the Kimberley Process. This also means that participants can decide not to take into consideration the findings and concerns of NGOs and the World Diamond Council, which has led to tensions between the different actors in the Kimberley Process on several occasions. In particular, the power differences between

governments and NGOs have likely contributed to worsening the relationship between the Chair of the Kimberley Process and the Civil Society Coalition, which felt disregarded by the United Arab Emirates.

Moreover, the context has changed over the past fifteen years. In the early 2000s, conflict diamonds represented about 15% of diamond production. This percentage has decreased to less than 1%, which means that the urgency of the issue has significantly decreased. Consequently, the goals of the NGOs have changed somewhat. While some countries think that the mission of the Kimberley Process should not change, NGOs believe that the certification scheme should evolve to address other issues associated with diamond production, such as poor working conditions and illegal trade. This new perspective created tensions between the members of the Kimberley Process and challenged the legitimacy of the Civil Society Coalition. In fact, some members believed that NGOs were preventing the Kimberley Process from functioning effectively and were focusing on issues that had nothing to do with the certification scheme and should be addressed by competent bodies within other structures that are specialized in human rights and labor rights.

The growing disagreement between the members of the Kimberley Process pushed several experienced NGOs to leave the Kimberley Process. Over the past few years, Global Witness, Fatal Transactions and International Alert made the decision to continue their fight against conflict diamonds from outside the Kimberley Process. International NGOs were replaced by young national NGOs with less financial resources and experience with conflict diamonds. This significantly decreased the ability of the Civil Society Coalition to play the role of expert in the Kimberley Process because these NGOs do not have the capacities to collect reliable and detailed information to support the

activities of the Kimberley Process. Over the last few years, Partnership Africa Canada is the only participating NGO that produced detailed reports about conflict diamonds and current challenges. The lack of evidence to support the concern of the Civil Society Coalition started to exasperate some governments, including the United Arab Emirates, which chaired the Kimberley Process in 2016. In 2015 and 2016 the Civil Society Coalition focused on the issue of undervaluation by the United Arab Emirates. They did not support their claims with facts and detailed explanations. Consequently, their recommendations had little impact and significantly decreased their legitimacy. Moreover, their lack of expertise means that it is difficult for them to collect information about the compliance of countries. Consequently, it constrains the ability of the Civil Society Coalition to act as watchdog.

During the last plenary meeting, the United Arab Emirates outlined several proposals to increase the participation of NGOs in the different activities of the Kimberley Process. In addition, Australia was elected as Chair of the Kimberley Process for the year 2017, the European Union as Vice-Chair for the year 2017 and India as Vice-Chair for the year 2018. This could help to calm the situation and establish a climate of trust and negotiation. It is unlikely that the Civil Society Coalition will leave the Kimberley Process in the next few years. However, if it decided to do so, it would probably not prevent the certification scheme from working because the Civil Society Coalition is no longer key to granting legitimacy to the Kimberley Process. Nevertheless, the international community could decide to implement other initiatives to regulate the issue of illegal diamonds, which are not covered by the Kimberley Process.

This graduate thesis focused on the role of NGOs within the Kimberley Process. It would be interesting to conduct the same analysis from the perspective of the diamond

industry and/or participating governments. Moreover, the participants of the Kimberley Process adopted several reforms, in response to the boycott of the Civil Society Coalition, in November 2016. There is currently very little information on these new initiatives and the impact that they could have on the Kimberley Process. Future studies could examine the long-term consequences that these reforms may have on the certification scheme.

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Appendix

Appendix 1: Requirements of Participating Countries

“Each Participant should:

(a) with regard to shipments of rough diamonds exported to a Participant, require that each such shipment is accompanied by a duly validated Certificate;

(b) with regard to shipments of rough diamonds imported from a Participant:

- require a duly validated Certificate;
- ensure that confirmation of receipt is sent expeditiously to the relevant Exporting Authority. The confirmation should as a minimum refer to the Certificate number, the number of parcels, the carat weight and the details of the importer and exporter;
- require that the original of the Certificate be readily accessible for a period of no less than three years;

(c) ensure that no shipment of rough diamonds is imported from or exported to a non-Participant;

(d) recognise that Participants through whose territory shipments transit are not required to meet the requirement of paragraphs (a) and (b) above, and of Section II (a) provided that the designated authorities of the Participant through whose territory a shipment passes, ensure that the shipment leaves its territory in an identical state as it entered its territory (i.e. unopened and not tampered with).”²⁰⁷

²⁰⁷ Kimberley Process Website

Appendix 2: Requirements of Kimberley Process Certificates

“Each Participant should ensure that:

- (a) a Kimberley Process Certificate (hereafter referred to as the Certificate) accompanies each shipment of rough diamonds on export;
- (b) its processes for issuing Certificates meet the minimum standards of the Kimberley Process as set out in Section IV;
- (c) Certificates meet the minimum requirements set out in Annex I. As long as these requirements are met, Participants may at their discretion establish additional characteristics for their own Certificates, for example their form, additional data or security elements;
- (d) it notifies all other Participants through the Chair of the features of its Certificate as specified in Annex I, for purposes of validation.”²⁰⁸

²⁰⁸ Kimberley Process Website.

Appendix 3: Members of the World Diamond Council²⁰⁹

- ABN AMRO International Diamond & Jewelry Group
- ALROSA Group
- Antwerp World Diamond Centre
- Asian Star Limited
- Bharat Diamond Bourse
- Brinks Global Services Limited
- C. Krishniah Chetty
- Chow Tai Fook
- CIBJO The World Jewellery Confederation
- De Beers Group
- Diarough NV
- Dimexon Diamonds Ltd.
- Dominion Diamonds Corporation
- Dubai Diamond Exchange
- Gem Diamonds
- Gem & Jewellery Export Promotion Council – India
- Grib Diamonds NV
- Hari Krishna Exports Pvt. Ltd.
- HVK International Pvt. Ltd.
- All India Gems and Jewellery Trade Federation

²⁰⁹ World Diamond Council Website

- International Diamond Manufacturers Association
- Israel Diamond Exchange Ltd.
- Interjewel
- Israel Diamond Institute Group of Companies
- K. Girdharlal International Ltd.
- KGK Diamonds BVBA
- Lazare Kaplan International
- Leo Schachter Diamonds
- Malca-Amit Group of Companies
- Mohit Diamonds Pvt. Ltd.
- Petra Diamonds
- Rio Tinto Diamonds NV
- Roberto Coin SpA
- Royal Asscher Diamond Company Ltd.
- Rubel & Ménasché Diamantaires
- Sheetal Manufacturing Co. Pvt. Ltd.
- Signet Jewelers Limited
- Tiffany & Co.
- Trelist Worldwide, Inc.
- US Jewelry Council
- Venus Jewel
- World Federation of Diamond Bourses