

Public Policy For Conflict-Sensitive Business

Commissioned by the
UN Global Compact

CONSULTANTS

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ENABLING ECONOMIES OF PEACE

Disclaimer

This report was produced in consultation with a broad group of experts and stakeholders. As far as possible, the report seeks to reflect the many insights and recommendations they provided. However, the views expressed, as well as any errors or omissions, are the responsibility of the authors and do not necessarily reflect those of the participants nor the UN Global Compact Office.

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Foreword

Every conflict is unique. There is no universal recipe to avoid stepping into the “conflict-poverty trap”. Ultimately, peace and successful development depend on societal will and effective governance. Both must come from within. We may not have the knowledge or means to predict exactly how business can contribute to sustainable peace in a particular environment. But we do know that a wider application of conflict-sensitive business practices and a greater awareness among investors who use their leverage in a positive way can go a long way. We also know that supporting like-minded actors on the ground, building capacities, and providing tools and resources are our best chances to ensure that business is equipped to address the impacts of its activities in conflict environments.

The findings and conclusions presented in *Enabling Economies of Peace*, which was first published in April 2005, summarize several years of pioneering work in this area. They remain relevant today, as the scourge of conflict continues to ravage countries around the globe. But there have been important developments. A number of practical approaches, such as the Voluntary Principles on Security and Human Rights and the Extractive Industry Transparency Initiative (EITI), have matured in recent years and a renewed focus on how the private sector can make a positive contribution to peace may help these voluntary instruments achieve greater impact. Moreover, as the UN Global Compact has gone global—with now over 6,500 participants supported by 90 country networks—opportunities for making a difference on the ground have multiplied. Finally, new actors, especially investors, have entered the new state, willing to give further momentum to this agenda, as they have begun paying more attention to the materiality of environmental and social risks to long-term performance.

The basic realities have not changed. Private actions cannot substitute for effective governance and bi- or multilateral cooperation. However, responsible investment decisions and responsible business operations and transactions can reinforce positive trends, build trust and stimulate peaceful and sustainable growth. Conversely, turning a blind eye on the potential impacts of business in conflict can easily make a bad situation worse.

The business case for peace is strong. The experiences made so far are encouraging. What we need now is a fresh start and a redoubling of our efforts. We hope that this reprinted edition of *Enabling Economies of Peace* will make a contribution.

Georg Kell
Executive Director
UN Global Compact Office
New York, February 2009

Synopsis

In the changing security landscape of the 21st century, one of the central challenges facing the international community is to ensure that the forces of economic globalization contribute to the achievement of sustainable peace and development. In an ideal world, sovereign states would be willing and able to manage peacefully their internal conflicts and husband their economic assets for the collective well-being of their citizens. Too often, however, internal weakness and external pressure combine against the will, capacity and means of developing nations to achieve these goals. Not only does the developmental potential of international trade and investment remain unrealized in these settings, market forces can themselves become a source of disruption, instability and violence. Under these conditions, the private sector becomes linked to local and regional conflict dynamics.

As stressed by the United Nations High Level Panel on Threats, Challenges and Change, today's threats to international peace and security are transnational, involving an increasing number of non-state actors operating beyond national borders and beyond the reach of the established peace and security architecture. Successfully managing these threats requires a coordinated effort among all stakeholders, both state and non-state, to help individual countries develop effective capabilities and become integrated into the framework of global governance. This challenge requires the international community to develop a comprehensive strategy to:

1. **Assist states** to govern their domestic economies effectively, especially their natural resource endowments
2. **Strengthen and harmonize** interstate efforts to govern cross-border economic transactions to prevent conflict, corruption and criminality

3. **Develop policies and practices** to support private sector efforts to reduce the negative impact of business operations in societies susceptible to conflict

4. **Systematically integrate** international development efforts and conflict prevention and peacebuilding institutions, policies and programs at all levels

Given its importance as a source of investment, the private sector is a potentially valuable partner in conflict prevention and post-conflict reconstruction efforts undertaken by governments and international organizations. Increasingly, leading companies in both the developed and developing world are embracing the notion that good corporate citizenship extends beyond the company gate. For these firms, obtaining "a social license to operate" from local stakeholders has become an essential component of sound business planning. In vulnerable and war-torn states, this has been extended to include conflict sensitive business practices. These practices enhance the private sector's positive contribution to conflict prevention and reconstruction and mitigate the unintended negative impacts of trade and investment on human rights, social cohesion, environmental protection and good governance.

To date, however, the potential for business actors to promote sustainable peace has not been fully realized. Individual company and industry initiatives to promote conflict sensitive practices have been tentative and sporadic. They have yet to be widely embraced and they have not yielded a cumulative positive benefit to war-affected communities. In large part, this is due to the incentive structure that companies face in weak and conflict-prone states, where domestic regulation is weak or absent, where competition over lucrative contracts can be intense, and where company misconduct can take place with impunity.¹

This points to the fact that efforts to develop conflict sensitive behaviour among companies have proceeded in isolation from the mainstream of international conflict management policy and practice, and with insufficient engagement by governments and intergovernmental agencies—the main guarantors of peace and security.

The aim of this report is to identify public policy options by which governments and international organizations can better assist private sector efforts to promote effective conflict-sensitive business practices, and do so in ways that make a demonstrable contribution to sustainable peace in the countries in which companies invest and operate. This report assesses the achievements and limitations of emerging private sector initiatives, identifies continuing gaps, and surveys the range of opportunities for complementary public policy action. While recognizing the complex policy challenges of improving governance, this report argues that conflict-sensitive business practices cannot progress in the absence of practical public policy assistance to companies. These objectives require concerted engagement by public policy actors.

The report concludes with a set of recommendations that address concrete actions the public policy community can take to support private sector efforts. These efforts would contribute to conflict prevention and post-conflict peacebuilding, security sector reform, the peaceful and responsible management of natural resources, transparency and good governance and the protection of human rights.

In offering recommendations, this report suggests that priority should be given to extending and deepening existing policy frameworks that show promise of enhancing private sector initiatives for conflict-sensitive business practice, and to increasing coordination among all relevant actors. Doing so will help to clarify where new policy frameworks are needed, as well as identifying the opportunities for developing a more coherent international policy framework.

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Introduction

The objective of this report, commissioned by the UN Global Compact and based on consultations among its stakeholders, is to assist the United Nations, its agencies and Member States in identifying and designing practical policies to promote the integration of conflict sensitive business practices into broader strategies of conflict prevention, management and sustainable post-conflict recovery.

The report seeks to achieve four aims:

- **Identify gaps in existing initiatives** and propose ways for public policy to extend or deepen these initiatives and enhance their effective implementation
- **Identify and discuss** key areas where public policy responses are needed in order to harness the positive potential of business in zones of conflict, as well as mitigate against negative business impacts throughout the conflict cycle
- **Develop policy recommendations** regarding how the United Nations system, governments and international financial institutions can further engage the private sector in conflict prevention and peacebuilding, particularly through enhanced coordination, public private partnerships and multistakeholder initiatives
- **Explore ideas** about the creation of new initiatives to address emerging challenges

This report is the result of the UN Global Compact Policy Dialogue focusing on “The Role of the Private Sector in Zones of Conflict”, which covers both the potential positive contribution of business actors to conflict prevention and peacebuilding, and the need to reduce the risk of business activities contributing to cycles of violence. Various international and regional-level meetings led to the creation of a network of like-minded actors that includes companies, NGOs, labour organizations, home and host governments,

academics and United Nations agencies. These meetings produced recommendations on improving management practices, developed practical tools to assist companies in adopting conflict sensitive business practices, and stimulated further research into the linkages between business and conflict.

Given the newness of public-private engagement in peace and security, which has traditionally been the exclusive preserve of governments and the United Nations Security Council, the GC Policy Dialogue on “The Role of the Private Sector in Zones of Conflict” has been an important mechanism for sensitizing business to both the negative and positive impacts of their investment decisions and operational management in vulnerable countries. Participating companies have gained a clearer understanding of the strong links between risk management, corporate citizenship, peacebuilding and sustainability. In so doing, the Policy Dialogue has reinforced ongoing parallel efforts at industry self-regulation through corporate codes of conduct and voluntary industry standards, such as the Voluntary Principles on Security and Human Rights and the Extractive Industries Transparency Initiative.

This report seeks to complement and strengthen the ongoing efforts of relevant UN Global Compact stakeholders, particularly companies, by identifying avenues for public policy to facilitate the adoption of conflict-sensitive business practices. The relevant policy findings are also intended to feed into a parallel initiative undertaken by the United Nations Inter-Agency Working Group on the Political Economy of Armed Conflict, established by the Senior Management Group, to promote improved policy responses by the United Nations to the economic dimensions of armed conflict.

I

The Economics Of War And Peace

Increased attention is being paid today to understanding the critical linkages between economic development and human security. Numerous studies confirm that the poorest countries are those with the highest risk of violent conflict. Violence and instability, in turn, reduce the prospects for sustained investment, leaving many countries ensnared in a “conflict trap” of spiraling violence and impoverishment.²

Overall, increased investment has been positively correlated with reduced conflict risk and increased national economic growth, creating jobs and raising living standards. But in many developing countries, particularly those affected by armed conflict, this virtuous cycle can be difficult to initiate and sustain.³

Given its importance as a source of investment, the private sector has come to be regarded as a potentially valuable partner in conflict prevention and post-conflict reconstruction efforts undertaken by national governments and international organizations.⁴

Among leading companies there is also a growing recognition of the risks posed to business by poverty, instability and armed conflict, and of the business case for integrating wider social and economic concerns into their policies and practices.⁵ Despite this positive potential, the operations of private enterprise can negatively impact societies—both directly and indirectly—and these effects need to be better managed. In an ideal world, sovereign states would be willing and able to resolve internal conflicts and husband economic assets for the collective well-being of their citizens. As stated in the recent report of the United Nations High Level Panel on Threats, Challenges and Change, “the primary responsibility for economic and social development lies with Governments, which must create a conducive environment for private sector-led growth and aid effectiveness”.⁶ But some states lack the capacity to govern effectively, are unable or unwilling to negotiate peaceful settlements to conflict, and are without

the means to provide an efficient and functioning economy for their citizens.⁷

In these countries, there are no institutional mechanisms in place to ensure responsible stewardship of natural resources, and investment can become entangled in predatory economic activities that are associated with corruption, transnational organized crime, human rights violations and armed conflict.⁸

Since the end of the Cold War, internal armed conflict has, in some settings, become a kind of private enterprise where combatants have exploited the availability of lucrative natural resources and greater access to global commercial markets to finance war-making. In his 2002 report on the protection of civilians in armed conflict, former Secretary-General Kofi Annan deplored the continuing state of affairs in which “individuals and companies take advantage of, maintain, and even initiate armed conflicts in order to plunder destabilized countries to enrich themselves, with devastating consequences for civilian populations”.⁹ As documented by a series of United Nations Expert Panel Reports and investigations by non-governmental organizations (NGOs), in states ranging from Sierra Leone to Afghanistan, powerful economic interests have benefited from the systematic plunder of war-torn societies at the expense of civilian welfare, fueling a vicious cycle of corruption, poverty and violence. Such plunder also contributes to the funding of transnational crime and terrorism.

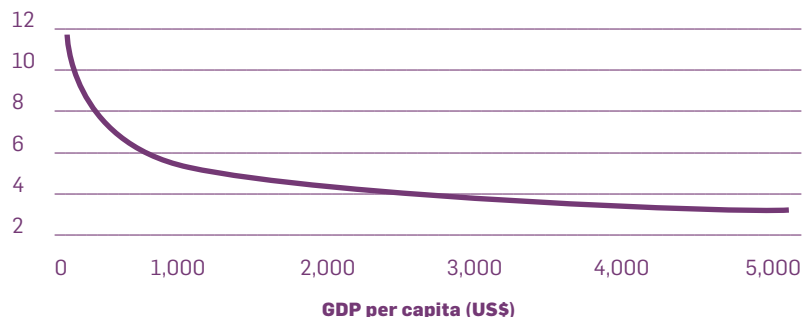
The economic dimensions of armed conflict are complex and multifaceted. On a structural level, countries with a high dependence on natural resource extraction and primary commodity exports tend to face a higher risk of conflict.¹⁰ Their apparent natural wealth is paradoxically associated with lower levels of economic development, in what has come to be known as the “resource curse”.¹¹ Poor governance of lucrative natural resource endowments can lead to associated pathologies of uneven development, rent-seeking, corruption, inequitable distribution

of benefits, and the erosion of legitimate and capable state authority. On a more immediate level, the ability of combatants to capture and control weakly regulated trade and production of lucrative commodities can trigger the outbreak of violence and provide continued financing of armed conflict. Legitimate commerce can become corrupted to violent ends, falling into a gray zone of quasi-legality.

While the relationship between resource flows, corruption and conflict is well-documented and has garnered much attention in recent years, other forms of investment have also been associated with destabilizing forces, particularly within weakly governed or “fragile” societies.¹² Large infrastructure projects, such as the building of dams and roads, can become a source of severe division among competing groups instead of sources of widespread development. The contracting process itself often is mismanaged in ways that enrich the few at the expense of the many. The creation of modern industry, including the development of agro-industry, can exacerbate existing differences within society as it creates new winners and losers—leading to violent resistance by citizens adversely impacted by development. Governments may be tempted to respond in turn with heavy-handed tactics that lead to heightened divisions within society and increasing societal instability.

As highlighted by a number of significant recent reports by the United Nations, the United Nations Millennium Project and the World Bank, development is the key to peace and security, and the key to such development is creating and supporting capable states.¹³ States with low incomes are those most likely to suffer from conflict (see *Figure 1*). One of the critical challenges today is to promote the beneficial aspects of trade and investment (which provide rising productivity, decent jobs and technological advancement), while reducing the negative effects of commerce and investment that perversely lead to or sustain conflict.

Figure 1 | Rising national incomes reduce the risk of civil war
Predicted probability of observing a new conflict within five years (%)



This challenge requires the international community to develop a comprehensive strategy to:

- 1. Assist states to govern** their domestic economies effectively, especially their natural resource endowments
- 2. Strengthen and harmonize** interstate efforts to govern cross-border economic transactions to prevent conflict, corruption and criminality
- 3. Develop policies and practices** to support private sector efforts to reduce the negative impact of business operations in societies susceptible to conflict
- 4. Systematically integrate** international development efforts and conflict prevention and peacebuilding institutions, policies and programs at all levels

The successful achievement of each of these goals, especially the latter, hinges to a large extent on a commitment to pursue all of them in a coherent fashion. It will require the United Nations to develop appropriate tools and capacities to work effectively with multiple stakeholders, including Member States, international and regional financial institutions, the private sector and civil society.

Note: Estimated probabilities are derived from the relationship between GDP per capita (constant 1985 US\$) and civil war onset. The figure denotes only average relationships identified across countries and over time and does not imply that for any income levels conflict risks are the same in all places.

Source: Humphreys, M., and A. Varshney. 2004. “Violent Conflict and the Millennium Development Goals: Diagnosis and Recommendations”. Background paper for the UN Millennium Project Task Force on Poverty and Economic Development. UN Millennium Project Indigenous Peoples Forum 2004, New York. Cited in UN Millennium Project. 2005. Investing in Development: A Practical Plan to Achieve the Millennium Development Goals. New York.

II

The Role Of Business In A Changing Security Landscape

The activities of the private sector affect human security through a number of routes. At a macro-level, sudden and large inflow of legally created revenues can lead to corruption and be a potential source of conflict. At a microlevel, legitimate business may have unintended negative impacts on local conflicts by affecting the distribution of economic benefits, by upsetting existing cultural and societal relations, and by generating negative externalities, such as environmental pollution. These can all lead to political opposition against the private sector projects and against those who support these operations. For instance, the establishment of a major mining operation in a remote region may enrich the central government of a country through the company's revenue payments and/or it may benefit local inhabitants more than the rest of society. The mining operation may generate a significant inflow of newcomers seeking jobs, while at the same time its activities may degrade the local environment and diminish traditional livelihoods. These, and other impacts, upset the status quo within a society, feeding into existing divisions, and often leading to government repression and armed conflict.

Legitimate business may affect existing conflicts by operating in ways that support and strengthen the existing order—one which may be authoritarian, engaged in human rights abuses, corrupt, or just lacking the capacity to govern effectively. Opposition groups may view business as a natural ally of the government or powerful interests and begin to target company personnel and property, thereby making companies a party to existing conflicts. Taxes paid by companies to governments may finance increased central government control and repression relative to local opponents, or may create incentives for corruption and even violent competition for control over resources. This raises serious issues regarding the nature and scope of the potential complicity of busi-

ness in human rights abuse and the continuation of violent conflict.

Globalization also has changed international dynamics in ways that can link legitimate business with a wide range of new and illegitimate commercial actors and transactions. These dynamics signify the entry of a wide range of non-traditional players in the political economy of armed conflict, including entrepreneurial warlords, profit-driven mercenaries, transnational organized criminal groups and commercialized military networks. These interact in global markets with otherwise legitimate transnational investors, financiers, traders and producers. Not only do many of these actors operate beyond national borders, they also operate outside the reach of the established global peace and security architecture. The result is that, in a very literal sense, global governance has not kept pace with globalization.

As the report of the High-Level Panel emphasizes, "today's threats recognize no national boundaries, are connected, and must be addressed at the global and regional as well as the national levels".¹⁴ Successfully managing these threats will require a coordinated and collective effort by all concerned stakeholders, state as well as non-state, to help individual countries develop into effective and capable states and to integrate all states into a more effective framework of global governance. "For all those in a position to help others build that capacity", the Panel urges, "it should be part of their responsibility to do so".¹⁵

Increasingly, leading companies in both the developed and developing world are embracing the notion that good corporate citizenship extends beyond the boardroom and the company gate.¹⁶ Positive community relations, environmental protection and sponsorship of health and education initiatives have become standard elements of today's corporate citizenship agenda. More recently, companies have explored

ways to extend traditional corporate social responsibility (CSR) to address broader issues of peace, security and sustainable development, particularly when operating in war affected settings. Moreover, private financial institutions are also beginning to include conflict risk in their definitions of risk assessment. Follow-up work to the UN Global Compact “Who Cares Wins” initiative is examining this issue and the extent to which security risk can become an integral part of asset management and investment analysis. This will have a large impact on corporate activities.

This change was prompted in part by the difficult security risks companies have encountered when operating in conflict-affected countries. It has been prompted also by the pressure brought to bear by the increased attention of civil society groups to the unintended impacts that some business activities can have on human rights and human security. For progressive firms operating internationally, the ability to obtain an implicit social license to operate among local and national stakeholders in host countries is now seen as an essential component of sound business planning. It has led some companies not only to explore the adoption of conflict sensitive core business practices, but also to

engage in a broader range of projects that may address the sources of violent conflict and thereby contribute to peacebuilding. According to the Collaborative for Development Action (CDA), an NGO that has worked closely with companies, it has transformed the way these companies conceptualize and assess the risks posed by doing business in unstable or war-torn countries. In addition to traditional risk assessments that focus on the threats to company operations and investments, companies are now becoming sensitized to the need to anticipate the possible security and welfare risks posed by their own operations in relation to surrounding communities, and to take appropriate preventive measures.¹⁷ In short, a small but growing number of companies are poised to adopt a conflict-sensitive approach to their activities in vulnerable settings. By so doing, they seek to enhance their positive contribution to conflict prevention and post-conflict peacebuilding while also mitigating their unintended impacts on human security.

III

Conflict-Sensitive Business Practices

Understood broadly, “conflict sensitive business practices” (CSBP) refers to proactive and responsive efforts to ensure that routine company investments and operations in weak states (including those at war and those emerging from conflict), do not contribute to ongoing violence, corruption, criminality or human rights violations. They also refer to positive efforts to contribute actively to peacebuilding, human security and sustainable development. In this sense, it is analogous to the concept of “conflict-sensitive development”, which emerged in the 1990’s in response to a growing recognition among aid agencies of the interdependencies between development assistance and security. According to International Alert, an NGO that has pioneered practical guidance to companies in this area, CSBP extends beyond compliance with host country laws and regulation to efforts that ensure that core business activities “do no harm” by inadvertently contributing to conflict dynamics, and to company participation in peacebuilding projects that encompass social investment and policy dialogue. As International Alert has argued, “CSBP enables companies to carry out their legitimate activities in a manner that prevents conflict and promotes peace”.¹⁸

While a welcome contribution to conflict prevention efforts, microlevel tools may not be sufficient to address the sources of conflict that have their root in structural factors on the macro-level. Individual company and industry initiatives to promote conflict-sensitive practices have yet to be widely embraced, nor have they yielded a cumulative positive benefit to war-affected communities. This slow progress can be attributed to the very newness of the agenda, one in which companies and other stakeholders are searching for practical solutions without the benefit of clear expectations and a common normative framework. In part, it is due to the fact that these conflict-sensitive efforts have proceeded in isolation from the mainstream of international conflict management policy and practice, and with insufficient engagement by governments and intergovernmental agencies—the main guarantors of peace and security. If the promise of conflict-sensitive business is to be fulfilled, then business-led initiatives need the support of complementary public policies.

Table 1 | Selected Conflict-Sensitive Business Practices¹⁹

Practice	Purpose	Benefits
Conflict Impact Assessments ²⁰	To identify potential negative impacts of core business operations on host country political, social and economic stability	<ul style="list-style-type: none"> • Helps companies to anticipate and design remedies for potential problem areas, identify opportunities for peacebuilding and decide on “no go” areas
Multistakeholder Engagement (local and international)	To bring together relevant civil society, host and home government actors, and business in partnerships to identify problems, establish common norms and standards, and achieve mutually beneficial outcomes from business operations	<ul style="list-style-type: none"> • Enhances companies' social license to operate • Clarifies roles and responsibilities between host government authorities and companies • Engages international community in identifying areas of agreement that clarify appropriate business behaviour • Allows local community voice in company operations that affect it • Adds to overall transparency and credibility of company commitments
Community Development Projects	To bring company skills and resources to bear on the development and welfare of the community most affected by its operations	<ul style="list-style-type: none"> • Supplements delivery of needed public goods in weak states, which enhances social license to operate • Provides welfare benefits to affected communities that enhance their relationship with company, either as workers or as neighbours
Revenue Transparency	To decrease the potential for revenue capture and rent-seeking by elites, prevent the financing of armed conflict and empower local communities	<ul style="list-style-type: none"> • Gives affected societies essential information for holding government authorities accountable • Enhances social license to operate and decreases company exposure to charges of complicity in corruption • Limits the ability of combatants to use ill-gotten gains to finance war • Enhances social and economic stability for business
Commodity Certification	To ensure that the production and trade of lucrative commodities does not benefit warring groups or criminal actors	<ul style="list-style-type: none"> • Establishes clear criteria for legally produced and traded commodities • Allows for legitimate trade and penalizes illegitimate trade • Reduces company exposure to charges of complicity in illegal trade
Responsible Security Arrangements	To undertake due diligence in the hiring of private or public security services and establish standards that reduce the likelihood of human rights violations while protecting company personnel and facilities	<ul style="list-style-type: none"> • Promotes security sector reform and civilian safety in surrounding communities • Protects companies from unwitting association with human rights abuse and criminal behaviour

IV Existing Voluntary Initiatives And Relevant Regulatory Instruments

Like other new areas of global governance, policy change in support of conflict-sensitive business practices has been driven by ad hoc innovations responding to specific challenges and opportunities. For example, United Nations commodity sanctions, the Kimberly Process on the Certification of Rough Diamonds and European Union measures to regulate the global timber trade—all were undertaken in response to specific instances of violent conflict in which the unregulated trade in lucrative commodities served as a direct source of conflict financing in Sierra Leone, Angola and Cambodia. The current attention being paid to the issue of revenue transparency in natural resource exploitation—through initiatives, such as the NGO-sponsored Publish What You Pay Campaign, the UK Extractive Industries Transparency Initiative, and related integrity mechanisms adopted by the international financial institutions—was prompted by growing evidence of the linkage between natural resource dependence, rent-seeking and conflict. In some cases, such as the Voluntary Principles on Security and Human Rights, companies themselves have taken the lead in responding to conflict issues, engaging government and NGO stakeholders in the process. As a result, the current policy landscape resembles an uneven terrain marked by a range of issue-specific or problem-oriented initiatives, each focusing on a particular aspect of the complex interlinkages between business and conflict. Aside from a shared concern with addressing the intersection between trade, investment and armed conflict, these initiatives vary widely in terms of their objectives vis-à-vis conflict, the actors and activities they address, and the modalities for doing so. In the case of commodity controls, for example, the central objective has been to end ongoing conflicts by limiting financial flows to non-state armed groups through a reduction of the scope for the illicit exploitation and trade in lucrative commodities. In

general, these initiatives have been backed by punitive legal and market sanctions, though enforcement still remains an issue. By contrast, transparency initiatives have been undertaken as a conflict-prevention initiative, aimed at reducing the risks of conflict associated with otherwise legitimate investments of legal business actors in the extractive sector. Accordingly, the main modality for their development has been multistakeholder diplomacy and consensus-building. With regard to establishing standards for hiring security forces, companies were prompted by their exposure to complexity in human rights abuses perpetrated by other agents in their employ. In this case, voluntary norms were developed through engagement between the private sector and human rights organizations.

By the same token, the development of public-private initiatives for peacebuilding has proceeded on a case-by-case basis. Some, such as the World Bank-sponsored Chad-Cameroon Natural Gas Pipeline Project, were prompted more by company interests in protecting their investment against political instability than by the explicit goal of peacebuilding. Nevertheless, this project addresses important elements of structural conflict prevention by seeking to establish mechanisms for equitable revenue distribution and revenue transparency. Others, such as Sierra Leone's Kono Peace Diamond Alliance, have been undertaken as a more explicit attempt to assist Sierra Leone authorities to establish secure, transparent and equitable management of diamond mining so that it does not again become the source and sustenance of violent conflict. On the whole, however, these initiatives have been opportunity-driven; they are not yet integrated into routine conflict prevention and reconstruction efforts.

Table 2 below summarizes a variety of voluntary initiatives and regulatory instruments currently in existence.²¹ These include the initiatives described above, which were

designed explicitly to address the issues raised by the role of business in conflict and the need for conflict sensitive business practices. However, it also includes a number of other regulatory instruments, some of which were not designed to address the role of business in conflict but that might be extended or revised in creative ways to address the risks involved when corporations operate in unstable places.

In considering the range of existing instruments, a number of important points need to be taken into account. First, these initiatives are subject to varying levels of enforceability. In some instances, enforcement has been weak, often due to the relative newness of the initiative and the ongoing effort to devise workable and appropriate means for implementation. In other cases, however, the enforceability problem is inherent in the design of the initiative, particularly those that lack clear performance criteria and reliable monitoring mechanisms. Those that have gone furthest in achieving enforceability are those which have had sustained external push and public policy support.

As the survey of existing regulatory instruments demonstrates, these range along a policy continuum from purely voluntary, to mixed forms, to legally mandatory. To date, policy development has been stymied by an ongoing controversy concerning the relative merits of voluntary versus mandatory approaches, a debate which is often focused on the issue of enforceability. Casting the policy options in terms of this stark dichotomy is misleading and unhelpful. At the same time, a recognition of the fuller policy continuum from voluntary to mandatory should avoid construing voluntary approaches with weak and mandatory approaches with robust enforceability. Indeed, even legally mandated policies may be subject to weak enforceability. If the objective is to limit the risks of business activities contributing to conflict, and to enhance their contribution to peace-

building, then what matters is not whether the approach is voluntary or mandatory, but whether it can effect positive change. The voluntary-mandatory dichotomy also risks obscuring the full range of regulatory mechanisms that fall between pure voluntarism and hard law. Indeed, a number of the most important initiatives are hybrid forms of regulation, such as the Kimberley Process on the Certification of Rough Diamonds, which despite being a voluntary agreement has binding effects for participants both through a combination of law and market inducements.

Given the highly divergent set of business actors engaged in war economies, and their differing amenability to regulation, policy efforts need to make use of the full spectrum of regulation, ranging from voluntary codes of conduct to national and international law.

First, policy makers must recognize that different types of regulation have different strengths and weaknesses. While more robust legal regulation can help level the playing field and promote accountability, hard law is not always preferred, as even good laws may not be enforceable—especially internationally. Legal remedies cannot address the conflict promoting or conflict-exacerbating aspects of economic activities in zones of conflict that are, in many cases, legal under national and international law. Here, voluntary initiatives that seek to reduce the linkage of business to conflict by creating positive incentives for responsible company conduct remain indispensable. They should be complemented by enabling public policies.

Second, to date, there have been very few efforts that explicitly target those elements of business activity that directly affect conflict dynamics, whether they be driven by individual companies or industries or undertaken by wider multistakeholder processes. Among those that do exist, not all relevant issues have been addressed. For example, there is not yet a common norm or practical

Table 2 | Overview of Relevant Voluntary Initiatives and Regulatory Instruments*

	National Legislation	International Law
Security Arrangements	<ul style="list-style-type: none"> • Arms export controls • Laws regarding civil military relations • Laws regarding policing • Regulation of private security firms • Regulations restricting money laundering • Drug control policy • Anti-terrorist legislation 	<ul style="list-style-type: none"> • Geneva Conventions • International Convention against the Recruitment, Use, Financing and Training of Mercenaries • International Convention for the Suppression of the Financing of Terrorism
Employee Relations	<ul style="list-style-type: none"> • National labour law • Corporate governance 	<ul style="list-style-type: none"> • ILO Tripartite Declaration of Principles Concerning Multilateral Enterprises and Social Policy • ILO Declaration on Fundamental Principles and Rights at Work
Community Relations	<ul style="list-style-type: none"> • Freedom of expression • Free media • Right-to-know and sunshine laws • Relations between central and local government community most affected by its operations 	<ul style="list-style-type: none"> • ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries • International Convention on the Elimination of All Forms of Racial Discrimination • Convention on the Elimination of All Forms of Discrimination against Women • International Covenant on Economic, Social and Cultural Rights
Transparency and Anti-corruption	<ul style="list-style-type: none"> • US Foreign Corrupt Practices Act • Legislation on bribery and corruption • Criminal law 	<ul style="list-style-type: none"> • OECD Convention on Combating Corruption • OAS Inter-American Convention against Corruption • Council of Europe Criminal and Civil Conventions on Corruption • African Union Convention on Preventing and Combating Corruption • UN Convention against Corruption • Second EU Money Laundering Directive
Commerce	<ul style="list-style-type: none"> • Bilateral sanctions • Export controls • Criminalization of trade in drugs and other products 	<ul style="list-style-type: none"> • UN Security Council Resolutions for Angola, Sierra Leone, DRC, Liberia and Cambodia • EU Sanctions • UN Convention against Transnational Organized Crime
Human Rights/ Democracy	<ul style="list-style-type: none"> • Constitutional framework • Civil and political rights 	<ul style="list-style-type: none"> • Universal Declaration of Human Rights • International Covenant on Civil and Political Rights • International Covenant on Economic, Social and Cultural Rights • International Convention on the Elimination of all Forms of Racial Discrimination • Convention on the Elimination of All Forms of Discrimination against Women • Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment • Convention on the Rights of the Child • International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
Environment	<ul style="list-style-type: none"> • Environmental standards in export credit, insurance and investment promotion programs • Environmental standards in foreign assistance programs 	<ul style="list-style-type: none"> • UN Basel Convention on the Control of Transboundary Movement of Hazardous Waste • UN Framework Convention on Climate Change • UN Convention on Biological Diversity

Codes of Conduct, Guidelines	Oversight of Implementation: Monitoring, Reporting
<ul style="list-style-type: none"> • Voluntary Principles on Security and Human Rights • UN Code of Conduct for Law Enforcement Officials 	<ul style="list-style-type: none"> • Promotion and monitoring of international humanitarian law by the International Committee of the Red Cross, which directly reports to the authorities/actors responsible for alleged violations in a confidential manner
<ul style="list-style-type: none"> • UN Global Compact • OECD Guidelines for Multinational Enterprises • Social Accountability 8000 – (SA8000 certification) 	<ul style="list-style-type: none"> • Global Reporting Initiative • ILO monitoring • Union monitoring • Fair Labour Association • Ethical Trading Initiative • Worker Rights Consortium
<ul style="list-style-type: none"> • UN Global Compact • Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights • World Bank Resettlement Guidelines • OECD Guidelines for Multinational Enterprises • Social Accountability 8000 – (SA8000 certification) • Equator Principles on project finance 	<ul style="list-style-type: none"> • UN Working Group on Indigenous Populations • OECD National Contact Points (NCPS) facilitation mechanism for reports of specific instances • Social Accountability 8000 – (SA8000 certification) • Committee on Economic, Social and Cultural Rights • Human Rights Committee
<ul style="list-style-type: none"> • UN Global Compact • OECD Guidelines for Multinational Enterprises • The Wolfsberg Anti-Money Laundering Principles for Private Banking • IMF Draft Guide on Resource Revenue Transparency • IMF Code of Good Practices on Transparency in Monetary and Financial Policies • Extractive Industries Transparency Initiative (EITI) • Transparency International Integrity Pacts • ICC Rules of Conduct to Combat Extortion and Bribery • Transparency International Business Principles for Countering Bribery 	<ul style="list-style-type: none"> • The Financial Action Task Force on Money Laundering • OECD National Contact Points (NCP) [dealing with specific instances with regard to the implementation of the OECD Guidelines] • Basel Committee on Banking Supervision • Global Reporting Initiative • Group of States against Corruption (GRECO)
<ul style="list-style-type: none"> • Kimberley Process Certification Scheme for International Trade in Rough Diamonds • Forest Stewardship Council certification standard • OECD Guidelines for Multinational Enterprises • Social Accountability 8000 – (SA8000 certification) • Marine Stewardship Council 	<ul style="list-style-type: none"> • UN sanction bodies • UN expert panels • OECD National Contact Points (NCPS) facilitation mechanism for reports of specific instances
<ul style="list-style-type: none"> • UN Global Compact • Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights • Amnesty International Human Rights Guidelines for Companies • Principles of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Response Programmes • OECD Guidelines for Multinational Enterprises • Social Accountability 8000 – SA8000 certification) 	<ul style="list-style-type: none"> • UN treaty bodies • UN Economic and Social Council committees • Special rapporteurs and independent experts • Global Reporting Initiative
<ul style="list-style-type: none"> • UN Global Compact • IFC environmental impact safeguard policies • Equator Principles on project finance • Forest Stewardship Council standards • OECD Guidelines for Multinational Enterprises • Rio Declaration of the UN Conference on Environment and Development 	<ul style="list-style-type: none"> • UN Forum on Forests • World Bank inspection panel • UNEP Global Monitoring System • National reporting to review progress in Agenda 21

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Table 2 | Overview of Relevant Voluntary Initiatives and Regulatory Instruments

*This table does not provide an exhaustive list of relevant voluntary initiatives and regulatory instruments.

Adapted from: Jessica Banfield, Virginia Haufler and Damien Lily, *Transnational Corporations in Conflict Prone Zones: Public Policy Responses and a Framework for Action*, International Alert, London, 2003.

mechanism governing the interactions of companies with nonstate armed groups in war-torn settings. This is despite the fact that where companies operate in zones of conflict, such interactions are inevitable. More broadly, all of these initiatives are predicated on the assumption that business will continue to operate in conflict settings, despite the risks involved. Current efforts seek only to direct economic activities away from conflict and toward building peace. They do not address the prior question of “presence”—that is, under what circumstances there is simply no possibility for a positive business role—and what the appropriate stance of business should be in such cases.

Finally, the few conflict-specific corporate citizenship efforts that do exist, do so in relative isolation. Efforts to address one problem are not linked to other efforts. Initiatives directed toward or adopted by one industry sector do not extend to others. They have no connection to other relevant national and international legal and regulatory frameworks, which may have been designed for other purposes but have some potential for adaptation to the specific challenges posed by business and conflict. They remain unsupported by a unified, complementary international regulatory or policy framework that could serve to provide a common normative foundation or could build upon the latent synergies of existing instruments to better promote the conflict-prevention and peacebuilding capacities of business actors.

Certain features appear to characterize the relatively more successful efforts to address the intersection of business and conflict. The creation of new frameworks appears to depend upon three factors: specificity, urgency and external push.

Specificity: There is a clearly defined problem or opportunity, for instance, the problems posed by conflict diamonds, terrorist financing or abuse of natural resource revenues, or the opportunities afforded by post-conflict reconstruction for international organizations to work with companies in promoting economic recovery.

Urgency/Crisis: The specific problem or opportunity is accompanied by a broad consensus that, if left unattended, poses a dire threat to successful post-conflict recovery, human rights and/or international peace and security.

External Push: Typically a combination of NGO advocacy and media attention is critical to generating the impetus for public and private sectors to take practical action. In some cases, this is reinforced by strong engagement of international organizations that lend their authority and legitimacy to early advocacy efforts.

The sustainability of new initiatives that are relatively successful appears to require three additional factors: self-interest, multi-stakeholder engagement and enforceability.

Self-interest: Key stakeholders, including companies, NGOs, civil society groups, governments and the United Nations, have a compelling interest in rectifying the problem or in seizing the opportunity. To the degree that the initiative successfully addresses the identified problem, they have a self-reinforcing interest in maintaining their participation.

Multistakeholder Engagement Policy solutions are designed collectively among companies, governments, NGOs and others in a process that promotes consensus building and support by all actors. Since this process includes company participation, it reinforces their self-interest.

Enforceability: Effective initiatives put a premium on enforceability, either through the action of market incentives and sanctions, or through legal consequences for non-compliance by either states or companies.

As these observations suggest, for conflict-sensitive business to progress, there is a need for improved public policy engagement with business actors—both in terms of norm creation and norm implementation. Given the complexity of the issues and the untapped potential of a wide variety of existing policy mechanisms and frameworks, judicious development of public policy should make implementation and enforcement of existing instruments a priority.

The Need For Concerted Public Policy Engagement

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Active public policy engagement has been a defining feature of voluntary multi-stakeholder initiatives like the Kimberley Process for International Trade in Rough Diamonds, The Voluntary Principles on Security and Human Rights, the Extractive Industry Transparency Initiative and the UN Global Compact. Together, their promotion of company and industry self-regulation has sensitized companies to the need to recast traditional notions of political risk to include the risks that their own investments and activities may pose for conflict dynamics and human security. While helping to alter internal corporate cultures, these efforts have also provided some practical guidance to companies on ways to assess and remedy their unintended negative impacts on conflict dynamics, as well as to undertake proactive efforts at conflict prevention and peacebuilding.

However, these voluntary initiatives have not been widely adopted by companies, nor have they coalesced into a cumulative and

sustainable systemic impact. Nor can they do so without more concerted public policy and regulatory support. Nor can they do so alone. One weakness is the partial, self-selective nature of voluntary self-regulation and the lack of common norms and policies that would enable a competitive playing field. Currently, this playing field favours less scrupulous economic actors at the expense of progressive companies, as well as at the expense of the security and prosperity of the developing countries in which they operate. This regulatory gap has several implications, normative as well as practical.

First, company and industry self regulation has led to a proliferation of voluntary codes of responsible conduct, none of which have global reach and authority. Company adopted voluntary initiatives may lack credibility if they do not rely upon internationally adopted standards to establish clear benchmarks for distinguishing good performers from non-compliers. Here, the central policy challenge is the creation of a common, global and au-

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thoritative normative framework for conflict-sensitive business.

Second, self-regulation is self-selecting. In most cases, it is companies which value their reputation and social license to operate that adopt self regulatory practices, leaving them vulnerable to undercutting by companies less committed to responsible, conflict-sensitive practices. As documented by the United Nations Panel of Experts on the Illicit Exploitation of Natural Resources in the Democratic Republic of the Congo (DRC), this undercutting is precisely what occurred during the DRC conflict: large publicly-owned multinationals were largely squeezed out by less visible, less scrupulous junior companies unconcerned by reputational or security risks.²² Industry-driven efforts have thus far proven to be unable to affect the behaviour of rogue companies. United Nations targeted sanctions have proven more effective, but only when a concerted effort has been made by the Security Council and member-states to ensure compliance, a condition which has been met unevenly at best. Greater inter-governmental support for coordinated and strengthened law enforcement efforts is essential to creating a level global playing field. Without it, the problems of collective action and free riding cannot be overcome, and progressive companies will continue to be penalized for their efforts.

Third, the wider promotion of conflict-sensitive business practices is impeded by regulatory and jurisdictional gaps among states. Weak states are unable to regulate effectively, while strong states often disagree on policy initiatives that seek to improve inter-state cooperation on issues that transcend national borders. Without a common regulatory framework for trans-border trade and investment, the uneven support for better practices among home and host governments will continue to undermine company incentives for improved conduct. At a minimum, there is a need for governments

to work together to harmonize existing legal and regulatory frameworks governing cross-border trade and investment.

Fourth, companies may be undercut not just by other less scrupulous companies, but by host governments unconcerned or unable to address issues of corruption, criminality and conflict. Companies' first obligation is to abide by the laws of their host countries. In vulnerable and war-torn states, however, where rule of law is compromised and government capacity is weak, there are strong incentives for corruption and economic criminality. In such settings, international and local companies that seek to be law-abiding have been unable to exert their influence to redress the many egregious economic activities of partners and competitors that exacerbate violent conflict. As some companies have observed, their ongoing efforts to promote transparency in dealings with host governments gained increased legitimacy once backed by common international anti-corruption norms, thereby also eliminating host country perceptions that transnational companies were unilaterally imposing alien norms. To create an enabling environment for conflict-sensitive business practices requires complementary, coordinated public policy efforts to promote rule of law, domestic as well as international, and to hold host governments and state-owned enterprises accountable. As the Commission for Africa has noted in this regard, "Guidelines alone, of course, will not be enough". They have to be backed by authoritative agencies to monitor their effectiveness and by clear disincentives for non-compliance.²³

Finally, on a practical level, companies with operations in zones of conflict face a variety of critical challenges which they are often ill equipped to resolve on their own, but which could be better managed by supportive public policy. These challenges include: conducting operations with integrity where host country law and governance are

absent; identifying legitimate community interlocutors; dealing with armed groups that threaten plant and personnel; managing extended supply chains; ensuring operational security while also protecting civilians; and determining the criteria by which to assess those settings where conflict and absence of rule of law are so severe that investment and operations cannot be assured to “do no harm”, let alone to promote sustainable peacebuilding. Without sufficient information and technical assistance provided by other peace and security actors, companies may seek to manage their difficult environment by taking decisions without sufficient understanding of broader conflict dynamics or of the range of conflict-sensitive measures available to them. And absent improved cooperation between companies and development agencies, private sector community projects may fail to contribute to long-term sustainability, and may even work against it.

With a few notable exceptions, to date, public policy action in support of conflict-sensitive business practices has been sporadic and incomplete. Company representatives have repeatedly stated the need for rule of law, stability and predictability as a basic precondition for successful corporate activity. Increased engagement of governments in multistakeholder initiatives is essential to further progress, both in terms of establishing a common normative and regulatory

playing field and assisting private sector actors in practical ways to implement policies of conflict-sensitive business.

Governments and intergovernmental organizations are essential to setting the wider incentive structure, whether through statutory or legal regulation or through fiscal inducements that reward good behaviour and penalize poor performers. Government action is also needed to resolve the complex of jurisdictional issues involved. Public policies can complement self regulation by creating inducements for positive action, establishing clear guidelines for compliance with existing rules, and supporting, through policy, the actions of leading companies. Without a stronger lead role by governments, the problems of collective action cannot be effectively overcome. Given the competitive nature of business, it cannot be expected that improved conduct will naturally trickle down from progressive companies to laggards. Ultimately, the success of conflict sensitive business practices will thus depend on the engagement of governments and intergovernmental fora, including the United Nations, which remain the main guarantors of rule of law, international peace and security, and global governance.

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Public Policy Challenges

While the rationale for more robust policies in support of conflict sensitive business practices is compelling, translating this into practice presents a number of challenges, political as well as practical. A major political challenge is to clarify the respective roles and responsibilities of public and private sector actors with regard to their activities in areas affected by conflict. Currently these roles and responsibilities remain a matter of contention and confusion. In particular, it is not clear what constitutes a company's "sphere of influence" or under what conditions companies should apply conflict sensitive business practices. The idea that companies must be responsible simply because they have the resources and skills that may be otherwise lacking in weak states needs to be tempered by a recognition that there may be risks in asking companies to take on responsibilities that properly belong to states. Doing so not only increases company exposure to misdirected political grievances, but also perpetuates weak and unaccountable governments. To date, however, there is little consensus on the exact demarcation lines between appropriate public and private sector roles in zones of conflict. Achieving such consensus will require a concerted effort by governments and companies.

A second political challenge for public policy is to reconcile the need to establish global standards for businesses with the existence of state structures that do not themselves follow these same standards. Weak states, lack of accountability and transparency, the absence or lack of enforcement of national laws that reflect accepted international standards, all these are factors that work against companies that try to implement conflict-sensitive business practices. The invocation of the sanctity of state sovereignty can allow unaccountable company executives and government officials to act with impunity, even when their actions violate national and international law. Host governments must be persuaded to support a

range of conflict prevention and peacebuilding initiatives, including those pursued by the private sector. Overcoming lingering resistance will require sensitivity among donor and investor governments and a commitment to ensure that, where possible, support for conflict-sensitive business is supported and led by host-country governments.

Effective policy engagement, whether by home or host governments, will require governments to reconcile the competing priorities of promoting sustainable peace and national economic competitiveness. This is particularly problematic with regard to their desire to provide incentives to enhance the competitiveness of domestic companies with operations abroad. In the competition for lucrative natural resource contracts, for instance, there is a temptation to downplay or ignore the potential for increased conflict or human rights violations, and to look upon any standards or restraints as a burdensome cost and competitive disadvantage. This is why home states must coordinate their own trade, development and foreign policy agendas to ensure they do not conflict with each other. At the same time, reconciling the requisites for peace with those of profit highlights the need for cooperation and consensus at the international level to establish standards for all governments and corporations in order to create a level playing field. To date, the reticence of governments to undertake more robust policy efforts in this direction has been a function of their own collective action dilemmas, dilemmas that can only be resolved by determined leadership.

At a practical level, even with the best will among governments, technical barriers to effective action will remain. Governments and intergovernmental agencies must enhance their own knowledge of the way in which the private sector operates in order to be sure there is effective communication and dialogue. Typically, officials charged with promoting security and development have little knowledge of corporate styles

of operation, and are unable to engage the private sector effectively. They often see the private sector only as a source of additional financing for development and conflict prevention projects and do not recognize the myriad ways in which business may be able to contribute more directly to peacebuilding. Developing effective public-private partnerships for conflict-sensitive business will require that public agencies approach private sector actors as true partners.

Another challenge for public policy actors is to achieve a more comprehensive and accurate assessment of best practices in constructing public-private initiatives. We have little systematic knowledge as yet about

which types of initiatives are most effective in reducing or preventing conflict, either directly or indirectly. Public policy efforts should be informed as much by the lessons of failed initiatives as by the apparent success of others. Public-private partnerships can run the risk of undermining the legitimacy of governments or the programs they launch if they are not organized in a transparent and accountable manner. They also must be designed in ways that acknowledge the ultimately different goals and incentives of the public and private actors involved. This refers back to the important point made above, that the respective roles of public and private sector actors need to be clarified.

Public Policy Actors

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The recommendations of this report are directed to the main public policy actors who are engaged in economic development and peacebuilding efforts. The relevant policy actors are the United Nations system; donor/home governments, including their diplomatic offices, foreign aid departments, and export and investment promotion agencies; international and regional development banks, including the World Bank Group; the International Monetary Fund; and host governments, including their state-owned or supported corporations.

The United Nations system has much to bring to the development of public policies that support conflict-sensitive business practices. Its strengths include its presence on the ground in conflict-affected countries, and the intimate knowledge of local society, politics, culture, economic needs and conflict dynamics of United Nations staff. The United Nations also has a convening power, both locally and globally. The United Nations has

unique skills and expertise in the area of peacekeeping and peacebuilding, including post-conflict reconstruction assistance. To date, however, most United Nations departments and agencies have not explored to their full potential the opportunities for public-private cooperation on conflict prevention and post-conflict recovery.

The World Bank group, regional development banks and donor governments are the primary source of public financing for significant investment projects in the developing world. It is only comparatively recently that most donors began to address directly the links between conflict and underdevelopment, and sought to be more proactive in using development assistance to prevent conflict.²⁴ The use of public-private partnerships to increase capacity in this area is still in its early stages.

Other financial entities can have significant influence on the political capacity and stability of host countries. Home government

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economic agencies often provide financing to support trade relations and insurance and guarantees against the risks of lending and investing in weak states. These relationships, by definition, involve close collaboration between the public and private sectors. In addition, donor governments, especially the US, have begun to promote partnership with the private sector in their official development assistance programs. All of these government economic agencies have become more deeply involved in post-conflict reconstruction activities, but are only weakly integrated into conflict prevention programs.

The International Monetary Fund has a mission of supporting financial stability, and while it is primarily concerned with macroeconomic policy conditions, it also has an interest in assisting member countries to establish strong and effective banking systems and an economic environment conducive to investment.²⁵ Its main activities include

surveillance of Member States' economic conditions and policy advice; lending for both short and long term purposes; and technical assistance and research. The IMF, in recent years, has launched new anticorruption programs and other safeguards, which contribute to structural conflict prevention.

Almost by definition, host governments are the weakest policy actors with regard to supporting conflict-sensitive business practices, and yet they are the most crucial. Host governments are the main partners with many of the investors that operate in unstable regions. At the same time, in some cases, it is host governments that bear the greatest responsibility for violence, abuse and corruption. The international community must establish a system to reward those governments that improve their own integrity and capacity, while putting significant pressure on those that continue to thwart efforts to foster sustainable peace and development.

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Recommendations

Our recommendations fall into two main clusters. The first cluster consists of general recommendations for promoting conflict-sensitive business practices and for integrating these into conflict prevention and recovery. The second cluster includes recommendations for addressing the most critical linkages between economic activity and armed conflict, including: the provision of public and private security; the management of natural resources; the fight against corruption and criminality; and the protection of human rights. These recommendations address the relationship between the private sector and conflict during all stages of the conflict cycle.²⁷ The recommendations are not organized in terms of those different stages, how-

ever, since many of the recommendations cut across the conflict cycle.²⁸ In both the pre- and post-conflict phases, there is widespread agreement that private investment is critical to the successful development of a peaceful environment. During conflict, there is a greater danger of companies becoming complicit in violence, and thus a greater need for the international community to develop a clear and effective framework that defines and supports appropriate private sector behaviour.

The priorities we identify for policy action have been shaped by the shortcomings of current private sector initiatives identified above. These shortcomings include: a proliferation of codes and standards with

limited coverage and authority; the self-selecting and self-enforcing nature of these codes and the resulting collective action problem among firms; the lack of harmonization among governments in the regulation of trade and investment, reflecting collective action dilemmas among states; the profound weakness of certain host governments; and a lack of relevant expertise and information to guide company personnel in zones of active hostilities. Overcoming these weaknesses in existing frameworks will require policy action to strengthen good governance in host states, develop new rules to govern international economic transactions, coordinate development and security/peacebuilding programs, and provide support for private sector initiatives that address their own impact on conflict dynamics.

Promoting Conflict-Sensitive Business Practices, Conflict Prevention, and Post-Conflict Peacebuilding

The primary actors responsible for preventing and resolving violent conflict are states and the United Nations, particularly the Security Council. The United Nations was founded to “save succeeding generations from the scourge of war”, and in the post-Cold War era it has taken up this task with renewed vigor. The evolving nature of war, especially the emergence of intractable conflicts, complex humanitarian emergencies and the internationalization of civil wars, have made it difficult for governments and the United Nations to achieve the goal of sustainable peace without the participation of all relevant actors, including the private sector. The recommendations in this section focus on strengthening existing initiatives, and developing mechanisms by which current institutions of peace promotion can incorporate attention to the role of the private sector in conflict prevention and peacebuilding.

1 Governments and the United Nations can build upon existing initiatives for conflict-sensitive business to broaden their coverage and promote their implementation in ways that complement mainstream conflict prevention and reconstruction efforts.

- Enhance public sector engagement with and support for the full implementation of ongoing private sector initiatives, including the Extractive Industries Transparency Initiative, the Voluntary Principles on Security and Human Rights, the Kimberley Process for the Certification of Rough Diamonds, and the UN Global Compact
- Governments and other actors should promote cooperation between voluntary initiatives that already have a proven track-record
- Deepen and extend conflict sensitive business initiatives to sectors beyond the multinational extractive industry, with attention to the particular needs of local, small and medium enterprises, suppliers and subcontractors, and state-owned enterprises
- Donor governments should review and revise aid, trade and investment support policies to provide incentives for business to support existing initiatives in order to change cost-benefit calculations and encourage wider participation
- United Nations agencies concerned with issues of security and conflict prevention can participate in existing initiatives and integrate support for them into mainstream peacebuilding programs and policies

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2 The United Nations can use its convening power and international leadership to support the development of a common international framework to address the linkages between conflict and development, and in particular the role of the private sector; to exchange knowledge about best practices within United Nations agencies and between them and the private sector; and to devise mechanisms for enhancing expertise and coordination among United Nations peacekeeping missions, field agencies and private sector actors.²⁹

- Designate a key person within the United Nations system as a focal point to promote interagency collaboration; encourage the creation of public-private partnerships and multistakeholder programs within United Nations agencies; and provide relevant information to the private sector and to their public sector partners
- Consider commissioning a high-level report that examines the economic dimensions of armed conflict and identifies specific opportunities and mechanisms for the United Nations to use or develop its own capacity
- Encourage all United Nations development and security departments and agencies to identify areas and options for improved interagency coordination and information-sharing and for partnering with the private sector, particularly in developing post conflict reconstruction programs
- UNDP and UNDPKO should develop mechanisms to share field-based expertise and to build the capacity of country teams and local missions to engage private sector actors in developing joint projects, identifying legitimate local suppliers and adopting conflict sensitive practices
- UNEP should develop mechanisms to share its expertise regarding environmental

peacebuilding with UNDP and UNDPKO, and to extend public-private partnerships in this area

3 The Security Council could undertake a more systematic consideration of the political economy of armed conflict in its deliberations, particularly those concerning the mandates of United Nations peace operations.

- Enhance United Nations peacekeeping mandates and operations to ensure the provision of necessary staff and resources to peace operations to deal with actors and issues related to the political economy of conflict, particularly the role of business in zones of conflict
- Consider the creation of a permanent independent expert mechanism to investigate and report on particular instances where economic transactions contribute to conflict dynamics, and to strengthen the implementation of targeted sanctions where economic activities are clearly identified as conflict-promoting

4 Donor governments, international financial institutions and regional development banks could use existing economic programs to provide incentives to the private sector to adopt conflict-sensitive practices and to persuade host governments to support these efforts.

- Create conflict-sensitive standards for government procurement, lending, official development assistance, export credit, insurance and investment promotion programs
- Expand the adoption of the Equator Principles on project finance to include public agencies and institutions

- Donor government economic agencies and international financial institutions could require companies they support to perform conflict impact assessments, undertake due diligence with regard to brokers, intermediaries and middle-men, and to extend conflict-sensitive practices throughout their supply chains
- Donor government economic agencies and international financial institutions could consider a company's record on social responsibility as one criterion for evaluation in the awarding of government contracts and other support
- Include conflict mitigation considerations in the International Finance Corporation's Social and Environmental Safeguards, and use these as a model for other public institutions and agencies

Public Security Sector Reform and Private Security

Two ways in which the private sector can contribute directly to sustainable peace are by supporting security sector reform and the reintegration of excombatants into productive employment, and by ensuring that the provision of security for corporate personnel and facilities does not compromise the security of the local community. After conflict, investment by the private sector can play a critical role in re-establishing a functioning economy. Unfortunately, countries just coming out of conflict are the most at risk for descending back into violence. By providing decent work for former fighters, the private sector plays an extremely important role in supporting peacebuilding and post-conflict reconstruction. The private sector, particularly foreign investors, must provide security to its own employees and operations in even the most difficult circumstances. This often requires them to call on governments for protection, even

when the army and police forces have been implicated in human rights abuses and violence. Alternatively, companies may turn to unregulated private security firms that may not adhere to high standards of behaviour.³⁰ The issues raised by security sector reform and the private sector are challenging and will require both the public and private sectors to work together to resolve them.

5 The United Nations, international financial institutions and Member States should explore the establishment of a common framework for security sector reform, both public and private, to ensure that both the private sector and local citizens can call upon accountable, ethical and well-trained security services for the protection of people and property.

- Support the broadest adoption by business and member governments of the Voluntary Principles on Security and Human Rights and promote the strengthening of their provisions
- Utilize official development assistance and other channels to promote public security sector reform in weak states, particularly with regard to human rights standards
- Consider the negotiation of an international framework governing the conduct of private security firms, especially those operating internationally
- The Security Council could consider including in the mandate of peacekeeping operations that they share their expertise with locally-operating companies to assist them in promoting security and human right protection and to help them in dealing with armed groups in zones of conflict

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6 The United Nations and development banks can expand public-private partnerships in post-conflict reconstruction programs in order to enhance the ability of states to address the demobilization and reintegration of former combatants.

- Undertake comprehensive assessments in post-conflict countries of their specific demobilization and reintegration needs, and assess the potential contributions of relevant public and private sector actors
- Ensure that public sector demobilization and reintegration programs are developed and implemented in partnership with the private sector
- Develop partnerships in employment creation and training that coordinate public sector programs with private sector needs
- Develop public-private partnerships that pay attention to the special problems of the demobilization and reintegration of children and women who are former combatants and participants in armed groups

Management of Natural Resources

The ability to manage lucrative natural resources honestly, efficiently and effectively has emerged as one of the key factors in sustainable and peaceful development in many parts of the world. These resources include high value-added commodities, such as diamonds, oil, gas, coltan and timber. The successful management of natural resources has been associated with steady economic development and democratic stability, as seen in the example of diamond management in Botswana. At the same time, the mismanagement of such resources has been repeatedly associated with backward development, corruption and violent conflict. Indeed, the extractive sector has been one of the most

contentious areas of the business and conflict agenda, particularly foreign investors which have been accused of facilitating war, acceding to local corruption and supporting weak and authoritarian regimes. Any effective management of natural resources must include a positive role for the private sector, particularly foreign investors.

7 United Nations agencies, development banks, the IMF and Member States can strengthen and coordinate their assistance to weakly governed states for the management of their natural resources.

- Assist states in developing and implementing natural resource production-sharing agreements designed to ensure the equitable and transparent distribution of revenues, taking stock of lessons learned from the Chad-Cameroon pipeline project³¹
- The World Bank and the IMF in particular can support governments to promote comprehensive transparency in resource revenue income, budget transfers and expenditures and to help strengthen civil society capacity to monitor and track contracts and resources
- As part of this process, the United Nations should take up the recommendation of the High Level Panel on Threats, Challenges and Change to work with national authorities, international financial institutions, civil society organizations and the private sector to develop norms governing the management of natural resources for countries emerging from or at risk of conflict³²
- Provide technical and financial support for the negotiation of certification systems for commodities that have been used to finance war, illegal arms purchases, criminal enterprises and terrorist organizations,

drawing on the lessons of the Kimberley Process for diamonds³³

- Establish mechanisms for coordination among public agencies involved in providing support for natural resource management and in coordinating with the private sector

8 The United Nations and Member States should consider the negotiation of a regulatory framework to address trade in conflict commodities.

- Create a common normative prohibition on trade in commodities clearly linked to the financing of conflict
- Support the creation of commodity certification systems, with reference to the experience of the Kimberley Process, to address other conflict commodities, such as timber and coltan
- Strengthen the international legal framework regarding illegal trade, such as smuggling, illegal arms trade and the criminal drug trade
- Provide more resources to relevant agencies in their efforts to cut the link between these conflict commodities and terrorist financing

Corruption and Criminality

The international community has come to a consensus on the need to eliminate corruption. The negative effects of corruption on society are well established; this is particularly true for those countries undergoing conflict or recently emerging from conflict.³⁴ Corrupt practices can support the misuse of natural resource revenues, distort development and establish a criminal class within an economy. Corruption feeds off

conflict, and may prolong it, undermining efforts to achieve a peaceful settlement of differences and establish a functioning democracy. The combination of corruption and criminal networks can be a severe hindrance to post conflict reconstruction and can feed ongoing violence.

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was a significant step toward establishing global norms and action against corruption. Building on this, the United Nations Convention Against Corruption now provides a global normative framework. The UN Global Compact adopted anticorruption as its tenth principle in 2004. The report of the High Level Panel on Threats, Challenges and Change discussed transnational criminal organizations as one of the principal threats we face today, and pointed particularly to their role in the illicit trade in arms, global money laundering and terrorist financing. The NGO Transparency International has successfully facilitated a number of “integrity pacts”. And the UK government is promoting its Extractive Industries Transparency Initiative to counter corruption.

Despite the existence of robust legislation against domestic and extra-territorial corruption, prosecution of violators is not consistently undertaken. Governments need to do more to ensure their effective implementation, in particular to devote sufficient resources to publicize the laws, to encourage companies to develop due diligence procedures and to prosecute offenders.

The international financial community has a significant role to play in the fight against corruption and criminality. Stock exchanges, investment houses, banks and insurers have all taken voluntary steps towards practices that create disincentives for the misuse and mismanagement of funds, money laundering, and bribery and corruption. Such mechanisms include the UNEP Financial Initiative, the Equator Principles on project finance and recent meetings of

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the UN Global Compact following the “Who Cares Wins” report endorsed by leading members of the financial community.³⁵ Both public and private financial actors can provide significant leverage against other actors who are more directly involved in activities that may have a negative effect on conflict dynamics. Government agencies such as export credit and investment guarantee departments share an interest in reducing the corruption, criminality and conflict potential of the projects they finance in developing countries. The following recommendations build upon existing frameworks and seek to extend and strengthen them, emphasizing principles of transparency and accountability.

9 The international community should explore ways to support and implement programs to fight corruption and enhance transparency by adopting and ratifying the relevant international conventions and agreements regarding corruption, criminality and money laundering; supporting private sector initiatives by integrating incentives into existing programs; and ensuring that public sector programs adhere to the highest standards.

- Promote early state ratification of the United Nations Convention Against Corruption
- Undertake more robust use of the OECD Financial Action Task Force and the OECD Guidelines for Multinational Enterprises in war affected settings
- Promote the widespread adoption and implementation of the Extractive Industries Transparency Initiative and extend its coverage from resource revenues to transfers and expenditures
- Adapt donor government economic programs for official development assistance,

lending and export and investment promotion to provide assistance and create incentives for companies and governments alike to adopt transparency and anticorruption policies and programs

- The World Bank, the IMF and regional development banks can strengthen their assistance to host governments in developing effective legal and financial systems, including technical assistance for transparent and accountable systems of taxation and budgeting to create an enabling environment for investment
- Ensure the integration of conflict sensitive standards into procurement and project bidding, including the transparent tendering of proposals for investment projects and publication of all relevant processes and outcomes of the bidding process and participants in armed groups

Protection of Human Rights

Human rights abuses are also a significant outcome of war and of government efforts to end rebellion.³⁶ These abuses may be committed by states or by those opposing the state. Egregious violations include genocide, ethnic cleansing, forced displacement, forced labour and terrorist targeting of civilians and non-combatants. Corporations have been accused of complicity in government human rights violations, directly and indirectly, and some are facing legal action in a variety of jurisdictions. In response, many corporations have begun to develop stronger human rights codes for their own operations and those of their suppliers.³⁷ While it is not always possible to determine complicity in all cases, corporations need public authorities to establish a clear normative framework for appropriate practices in regions suffering from violent conflict in order to assure that company operations do not contribute to human rights violations and exacerbate conflict.

10 Mindful that States bear the primary responsibility for human rights under international law, the United Nations working with Member States can clarify the responsibilities of the private sector under accepted international human rights standards.³⁸

- Home governments should seek to develop accountability mechanisms to hold their own companies legally and financially accountable where they are knowingly involved with serious abuses of human rights committed in vulnerable and war-torn countries
- Member States must strengthen the implementation and enforcement of sanctions when the United Nations Security Council mandates such action, ensuring they have the needed domestic legislation in place
- Member States are urged to continue efforts within the United Nations to reach consensus on the relationship of the private sector to accepted human rights standards
- The United Nations should develop tools to assist companies to ensure their activities respect and protect human rights, particularly in contexts of armed conflict
- The United Nations and Member States should support international tribunals and the International Criminal Court to ensure that economic crimes committed by combatant parties, and aiding and abetting of those crimes by economic actors, are prosecuted

Conclusion

IX

A growing number of companies have come to recognize that their activities have profound impacts, for good and for ill, on the communities in which they operate. We welcome the efforts of leading companies to adopt conflict-sensitive business practices that promote security, human rights and sustainable development. However, the international community must recognize that private sector initiatives alone cannot manage the challenges that companies, host governments and affected communities face in zones of conflict. Whether positive or negative, the behaviour of companies is not simply a function of their own corporate cultures, but also and fundamentally a function of the broader playing field in which they operate. Currently, this playing field is highly

uneven and devoid of clear and enforceable rules of the game.

This report offers practical recommendations on what needs to be done to overcome the limitations of existing private sector initiatives. These limitations, we argue, can be overcome through more effective assistance to weak states to strengthen their governance capabilities; enhanced governance of international economic transactions that contribute to conflict; coordination among security and development assistance institutions, policies and programs; and direct public sector support for private sector efforts. The recommendations we propose provide more specific guidance on how to implement public policy in ways that support and expand on private sector initiatives.

IX

As we discussed above, the weaknesses of existing frameworks are tied to dynamics of private sector competition and cooperation, the management of the public sector and the difficulties of cooperation within and between states and intergovernmental organizations, and the nature of existing frameworks that address the intersection of business and conflict. For instance, we identify the problem that private sector initiatives suffer from self-selection, which lead us to recommend that the public sector, particularly economic agencies, provide incentives for more widespread adoption of conflict sensitive practices by more companies. Variation in the types of codes and practices that individual corporations develop, and their lack of ties to existing international norms, lead us to recommend the negotiation of common international standards and the development of a common normative framework through dialogue, conferences and United Nations leadership. These two recommendations—public incentives for the adoption of conflict-sensitive business practices and common international standards—may help address the problem of economic competition that often undercuts the efforts of leading corporations. It does, however, require states to overcome their own collective action dilemmas. Finally, private sector efforts often suffer from a lack of legitimacy. This leads us to recommend multistakeholder processes for negotiation and implementation of conflict prevention activities, which will enhance opportunities for participation by those most affected, and thus strengthen the accountability and legitimacy of these efforts.

The most obvious weakness on the side of the public sector is simple lack of attention. This leads us to recommend the creation of a central focus for business and conflict issues within the United Nations system. The recommendations focus on the need for leadership in bringing these issues to the attention of the relevant agencies at the national, regional and international levels

with the intention of institutionalizing in current programs attention to the private sector role in conflict and conflict prevention. Related to this lack of attention is the lack of coordination among security and development oriented agencies, both among them and between them and the private sector. The recommendations suggest the establishment of mechanisms of coordination, particularly within the United Nations system, and the creation of public-private partnerships to address the intersection of development and security.

An even more obvious and intractable issue that makes it difficult for business to adopt conflict sensitive practices is the nature of host governments in conflict-ridden areas. They may lack the will or capacity to provide stable governance, they are not transparent with regard to the most basic rules of the game and, in a few cases, they may be the source of problems of corruption, conflict and criminality. These are not issues that the private sector can or should address on its own. This is where the international public sector community has a particularly important role to play, by engaging in large-scale conflict management efforts, establishing norms against corruption and providing technical assistance to governments that lack capacity to govern effectively.

Existing initiatives addressing the business-conflict nexus have laid the foundation upon which to build. As noted above, however, they tend to be narrow in terms of the issues and sectors they address as they developed in isolation from each other and often in a crisis atmosphere. Their enforceability varies tremendously. The recommendations emphasize the importance of building upon these existing frameworks. The public sector needs to expand each initiative and link them together through more deliberate and reflective processes that focus on prevention, instead of waiting for a crisis to emerge. The public sector also needs to consider ways in which existing programs can be used to

change the cost-benefit calculations of the private sector in ways that enhance the enforceability of these initiatives—by appealing to the self-interest of the private sector.

Ultimately, the international community must come to agreement about the appropriate roles of public and private sector actors in conflict prevention and post-conflict reconstruction. Both sides are vital to the establishment of sustainable peace and devel-

opment, but the role of the private sector in conflict dynamics and its potential contributions to peace have not been adequately explored. This report has examined the key ways in which public sector policies can complement, supplement and support the private sector in larger conflict mitigation and peacebuilding efforts.

Appendix

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1 The Kimberley Process Certification Scheme

The Kimberley Process Certification Scheme (KPCS), is a joint government, international diamond industry and civil society initiative to stem the flow of conflict diamonds—rough diamonds that are used by rebel movements to finance wars against legitimate governments. Established on January 1, 2003, the KPCS is based on the establishment of a “chain of warranty” and government-issued certificates to help track diamonds from their mine of origin to point of sale, thereby ensuring they are conflict free. Participants agree to trade only with other participants who have met the minimum requirements of certification. Participants who fail to satisfy these requirements may be suspended from the Process. By 2004, the KPCS had 43 participants, including industry, governments, the European Community and NGOs. Together they account for 99.8% of global diamond production. While improvements in peer monitoring and harmonizing reporting requirements are ongoing, the KPCS is already credited with the restoration of official diamond exports, particularly in Sierra Leone.

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Observers attribute the progress of the KPCS to the strong support given to it by concerned governments, as well as by the endorsement of United Nations Security Council and United Nations General Assembly resolutions. The process has benefited from strong chairmanship by the governments of South Africa and Canada, the technical and financial resources of governments, IFIs and industry representatives. While voluntary, the certification scheme is backed by national legislation in all participating countries.

For more information, see www.kimberleyprocess.com, as well as the reports by Global Witness (available at www.globalwitness.org) and Partnership Africa Canada (available at www.pacweb.org)

2 Revenue Transparency in the Extractive Industries

Transparency in the extractive industries has come to be a central policy issue for conflict prevention, peacebuilding and development. Two initiatives have gained much publicity in recent years: The Publish What You Pay (PWYP) campaign, officially launched in 2002 by a consortium of NGOs, seeks to require companies in the extractive industries to publicly disclose and disaggregate their

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payments to host governments (taxes, royalties, bonus payments, etc.). This would introduce a minimum of transparency and would enable local civil society and donor agencies to hold host countries accountable for the use of revenues generated from natural resources. Such a mandatory approach would be based on several control mechanisms of home and host country regulators, including stock exchange listing rules, public accounting standards and public export credit and insurance agencies' conditionality and contractual agreements. According to its promoters, this mandatory approach would help overcome the "collective action problem" encountered by companies that unilaterally disclose their payments and thus are vulnerable to host country reprisals and competitive disadvantages vis-à-vis less progressive companies.

For more information, see www.publishwhatyoupay.org

The Extractive Industry Transparency Initiative (EITI) was initiated by the British government in 2002 in response to the growing calls for resource revenue transparency, particularly, but not exclusively in war-affected societies. While sharing the same rationale as the PWYP campaign, the EITI is thus far based on a voluntary approach and focuses more explicitly on the parallel disclosure by host governments of their revenues from resource exploitation. The EITI, which was officially endorsed by the World Bank, is based on country-level agreements setting out provisions for annual disclosure of company payments and government revenues by all parties in each country to a trusted third party, using standardised templates.

For more information, see: www.dfid.gov.uk

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The EITI is still a nascent initiative, yet to be implemented. Observers credit both NGOs and the UK government, which has led the process since its inception, for placing transparency in the extractive industry high on the international agenda. Also, for making

clear its importance to peace and development, and for establishing a credible multi-stakeholder process. Transparency advocates believe that there is a greater role for public policy to play in providing inducements and incentives that ensure the widest adoption and implementation of accurate and credible reporting by companies.

3 Reforms in Diamond Mining

While the Kimberley Process has done much to rationalize the global diamond trade, it does not directly address issues of diamond production, particularly informal production by small artisanal mines in alluvial diamond fields. Several initiatives have been launched to fill this lacuna, each of which seeks to ensure the safe, sustainable and peaceful mining of diamonds, while also ensuring widest possible community benefits.

The Peace Diamonds Alliance, launched in December 2002, brings together local and international NGOs, diamond buyers, mining companies and the government of Sierra Leone. Managed by Washington-based Management Systems International, and supported by, inter alia, Dfid, Global Witness, De Beers and Catholic Relief Services, the Peace Diamonds Alliance seeks to establish transparent and just diamond production and marketing systems, which reduce diamond smuggling and foster economic growth and social empowerment. The Alliance is based on a pilot approach of "systematic diamond management", including the establishment of mining cooperatives, the support of artisanal diggers with training and the provision of credit, as well as by ensuring that miners receive fair prices.

For more information, see www.peacediamonds.org

The Campaign for Just Mining (CJM) is an NGO initiative, launched by the Network Movement for Justice and Development in January 2000 to promote sustainable develop-

ment in Sierra Leone by advocating accountability, transparency and social responsibility within the mining sector. CJM has established Task Forces of civil society members that monitor development within the mining sector and coordinate community-based educational programs to ensure that community members are aware of their rights and responsibilities under current mining legislation. CJM participates in radio and TV programs, debating issues such as the requirements of environmental impact assessments, child labour and the implications of Sierra Leone's membership in the Kimberley Process.

For more information, see: www.nmjd.org

The Development Diamond Initiative (DDI), established in 2005, is an initiative of Partnership Africa Canada, Global Witness and De Beers. Through a multistakeholder process, the DDI seeks to explore the viability of establishing a broader development and regulatory environment in which alluvial rough diamonds can be mined and distributed for the greater benefit of artisanal miners, local communities, local governments and the wider international diamond industry.

For more information, see: www.pacweb.org

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While all are still in a rudimentary stage, these initiatives provide an important opportunity for host governments to improve the socioeconomic conditions of artisanal miners, ensure sustainability and bring this production into the formal sector. The participation of key bilateral and multilateral donors, and the financial and technical resources they can provide, is critical to all of these initiatives and should be encouraged.

4 Security and Human Rights

The Voluntary Principles on Security and Human Rights, (formerly the US-UK Principles on Security and Human Rights), established in 2000 by the governments of the US and UK,

Amnesty International, Human Rights Watch and several extractive industry companies. Stemming from concerns shared by participating companies and NGOs about the potential for human rights abuses, the VPs are a set of guidelines designed to promote and protect human rights in the context of extractive companies' operations. They aim to reduce the potential for human rights abuses arising as an indirect consequence of extractive companies' legitimate security requirements by addressing: companies' methods of risk assessment; the relationship between companies and host government security providers; the relationship between companies and private security firms. The participants include four governments (US, UK, Norway and the Netherlands), NGOs and 15 companies.

For more information see: www.iblf.org/csr/csr-webassist.nsf/content/a1a2a3d4a5.html#2, and www.voluntaryprinciples.org/index.php

United Nations Sub-Commission for Human Rights "Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with Regard to Human Rights", released by the Sub-Commission in August 2003. The Norms represent an attempt to codify the obligations and responsibilities of business actors for the respect, protection and promotion of human rights. Regarded as a highly controversial initiative by many business representatives, and criticized by some as burdening companies with responsibilities that properly belong to states, the Norms have become the basis of a broadly participatory consultation under the aegis of the High Commissioner for Human Rights. This process has the potential to produce agreed upon norms, grounded in international law, with universal application, that govern the expectations placed on companies vis-à-vis human rights. The consultation has involved an unprecedented number of submissions, from companies, legal advocates and NGOs, all of which have fed into a Report of the High Commissioner,

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on the agenda for the Commission's consideration in March 2005.

For more information, see: www.ohchr.org

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While company initiatives to conduct operations in ways that respect and protect human rights are to be welcomed, if the aim is to reduce the potential for business activities to harm human rights and human security, then governments, working through appropriate United Nations and other multilateral fora, must assist in setting the essential normative framework. Doing so would clarify

expectations, responsibilities and accountability of all companies operating in zones of conflict, regardless of whether or not they are signatories to parallel voluntary initiatives. As part of the norm-setting process, it will be critical for governments to address the human rights responsibilities of companies as distinct from those of states. Public policy support can also help to provide practical guidance for companies to ensure that their operational activities in war-affected and unstable areas are consonant with accepted international human rights norms.

Endnotes

- 1 On the challenges and remedies for business actors in zones of conflict, See: Rachel Goldwyn and Jason Switzer, "Assessments, Communities and Peace—A Critique of Extractive Sector Assessment Tools from a Conflict-Sensitive Perspective", in *Oil, Gas and Energy Law Intelligence (OGEL)*, vol.2 issue 4 (2004), available from www.gasandoil.com/ogel/; Jake Sherman, **Private Sector Actors in Zones of Conflict: Research Challenges and Policy Responses**. IPA-Fafo Institute Conference Report. *New York: International Peace Academy, 2001*. Leiv Lunde and Mark Taylor, with Anne Huser. *Commerce or Crime? Regulating Economies of Conflict*. Fafo Report no. 424. Oslo: Fafo Institute, 2003; Karen Ballentine and Heiko Nitzschke, eds., *Profiting From Peace: Managing The Resource Dimensions of Civil War* (Boulder: Lynne Rienner, 2005).
- 2 Paul Collier, **Breaking the Conflict Trap: Civil War and Development Policy** (Washington, DC: *The World Bank, 2003*).
- 3 For analysis of the conditions that facilitate investment that promotes economic growth, employment, and other benefits, see **The World Bank, World Development Report 2005: A Better Investment Climate for Everyone** (Washington, DC: *World Bank, 2004*).
- 4 Virginia Haufler, "Foreign Investors in Conflict Zones: New Expectations", in Peter Dombrowski, **Guns and Butter: The Political Economy of International Security** (Boulder: *Lynne Rienner, forthcoming*).
- 5 Jane Nelson, **The Business of Peace: The Private Sector as a Partner in Conflict Prevention and Resolution** (London: *Prince of Wales Business Leaders Forum, 2000*).
- 6 United Nations, "A More Secure World: Our Shared Responsibility", (*New York City: United Nations High Level Panel on Threats, Challenges and Change, 2004*). See also International Commission on Intervention and State Sovereignty, "The Responsibility to Protect", (*Ottawa: International Development Research Centre, 2001*).
- 7 The recent report of the UN Millennium Project distinguishes between "bad volition", which means a lack of will, and lack of capacity among developing countries. This applies as much to issues of conflict as it does to the issues of development addressed in that report. UN Millennium Project, "Investing in Develop-

- ment: A Practical Plan to Achieve the Millennium Development Goals”, (*New York City: UN Millennium Project, 2005*).
- 8 Karen Ballentine and Jake Sherman, eds. **The Political Economy of Armed Conflict: Beyond Greed and Grievance** (Boulder: Lynne Rienner, 2003); Ballentine and Nitzschke. “The Political Economy of Civil War and Conflict Transformation: Berghof Handbook”. Berghof: Berghof Research Center for Constructive Conflict Management, 2004; Ballentine Nitzschke, eds., **Peaceful Profits: Managing the Resource Dimensions of Armed Conflict**, Boulder: Lynne Rienner Publishers, forthcoming May 2005; and Mat Berdal and David M. Malone, eds. **Greed and Grievance: Economic Agendas in Civil Wars**. Boulder: Lynne Rienner, 2000.
 - 9 United Nations, “Report of the Secretary-General to the Security Council on the Protection of Civilians in Armed Conflict”, (*New York: United Nations, 2002*). p. 14.
 - 10 Collier, **Breaking the Conflict Trap: Civil War and Development Policy**.
 - 11 Michael L. Ross, “The Political Economy of the Resource Curse”, *World Politics* 51, no. 2 (1999).
 - 12 UN Millennium Project, “Investing in Development: A Practical Plan to Achieve the Millennium Development Goals”. Ch.12. In this report, we use the terms “fragile societies”, “weak states”, and “failed states” interchangeably. These all refer to differing degrees of state incapacity and, in respect to this report, vulnerability to conflict.
 - 13 Ibid, United Nations, “A More Secure World: Our Shared Responsibility”. UN Millennium Project, “Investing in Development: A Practical Plan to Achieve the Millennium Development Goals”. World Bank, “World Development Report: The State in a Changing World”, (*Washington DC: The World Bank, 1997*).
 - 14 United Nations, “A More Secure World: Our Shared Responsibility”.
 - 15 Ibid. p. 11, 22
 - 16 Virginia Haufler, **The Public Role of the Private Sector** (*Washington, DC: Carnegie Endowment for International Peace, 1995*).
 - 17 Luc Zandvliet and Ibiba Don Pedro. **Oil Company Policies in the Niger Delta**. Corporate Engagement Project. Cambridge, Mass.: Collaborative for Development Action, 2002; available at www.cdainc.com/cep/publications/reports/Visit03Nigeria.pdf.
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 - 18 See especially: Jessica Banfield, Adam Barbolet, Rachel Goldwyn and Nick Killick, **Conflict-Sensitive Business Practice: Guidance for Extractive Industries**. London: International Alert, 2005., Page 21, also Mary Anderson, **Do No Harm: How Aid Can Support Peace—or War**. Boulder: Lynne Rienner, 1999.
 - 19 To the core CSBP, new guidance is being developed to assist companies to deal with other conflict management challenges, including: resettlement, protection of indigenous peoples, and dealing with armed groups. For further information, see: Jessica Banfield, Adam Barbolet, Rachel Goldwyn and Nick Killick, **Conflict-Sensitive Business Practice: Guidance for Extractive Industries**. London: International Alert, 2005., Page 21
 - 20 For further guidance on conflict impact assessment tools for companies, see: Fund For Peace, “Conflict Impact Assessment System Tool”, available at: www.fundforpeace.org/programmes/cpr/cpr.php Ashley Campbell, **The Private Sector and Conflict Prevention Mainstreaming—Risk Analysis and Conflict**

- Assessment Tools for Multinational Corporations.** Country Indicators for Foreign Policy. Ottawa: Carleton University, 2002. Available at: www.carleton.ca/cifp/docs/mnncriskassessmentreport12.pdf; and Danish Institute for Human Rights, **Building a Tool for Better Business Practice: Human Rights Compliance Assessment**, The Human Rights and Business Project. Available at: http://www.humanrightsbusiness.org/compliance_assessment.htm
- 21 Some of the most prominent initiatives involving the private sector are described in more detail in the appendix to this report.
- 22 **Report on the Panel of Experts on the Illegal Exploitation of Resources and Other Forms of Wealth of the Democratic Republic of Congo**, UN Docs. S/2001/357, April 12, 2001, and S/2002/1146, October 16, 2002.
- 23 Report of the Commission for Africa, **Our Common Interest**. London: Commission for Africa, 2005, pp.158, para 51.
- 24 Mark Duffield, **Global Governance and the New Wars: The Merging of Development and Security** (London and New York: Zed Books, 2001).
- 25 The IMF became increasingly involved in long-term development assistance in the last decade, although there are regular calls for it to revert to its original mandate and leave poverty reduction to the World Bank. The IMF has resisted this call, in part because so many of its members today are developing countries. The IMF was a central participant in formulating the Monterrey Consensus policy framework for poverty reduction.
- 26 These recommendations have also been informed by and are intended as a complement to those developed in parallel forums, in particular: Report of the Commission for Africa, **Our Common Interest**. London: Commission for Africa, 2005, pp.157-158. See also: Jessica Banfield, Virginia Haufler, and Damien Lily, **Transnational Corporations in Conflict Prone Zones: Public Policy Responses and a Framework for Action**, *International Alert*, London, 2003.
- 27 For analytic purposes, it is useful to distinguish between three stages of conflict: pre-conflict, conflict, and post-conflict. In reality, they overlap significantly and do not represent an inevitable progression through stages, as fragile states can easily fall back into conflict.
- 28 During actual conflict—inter-state war, civil war, rebellion, and violent repression—most legitimate business activity comes to a halt, which deepens the crisis. However, depending on the size and severity of the conflict and on the industry sector involved, there are many instances when both foreign and local business operations continue but under extremely difficult circumstances.
- 29 The High Level Report “Our Shared Responsibility” recommends that there must be new institutional arrangements to address the economic and social threats to international security, and points to the comparative advantage of the United Nations in addressing these threats due to its unparalleled convening power, which allows it to formulate common development targets and rally the international community around a consensus.
- 30 The privatization of security services on a global basis has become a contentious issue in recent years, but there is relatively little regulation of their activities. International Alert, “Report on Mercenaries”, (London: International Alert, 2002).
- 31 The Chad-Cameroon pipeline project involved a partnership among the World Bank, oil companies, local and international NGOs, and the host governments. It established a division of revenue between the government and a development fund administered by an independent panel, with the majority of the revenue deposited in the fund. The project is intended to ensure that as much of the benefit as possible goes to the citizens, and that corruption is kept to a minimum.
- 32 United Nations, “A More Secure World: Our Shared Responsibility”, *New York: United Nations High Level Panel on Threats, Challenges and Change, 2004*, page 167.
- 33 For more information on the Kimberley Process, see Appendix, page 57.
- 34 Corruption afflicts both rich and poor countries, despite the perception that it is a characteristic only of developing societies.

- 35 United Nations Global Compact, "Who Cares Wins", (New York: United Nations Global Compact, 2004).
- 36 The lack of human rights violations should not, however, be taken as an indicator of a stable society, since repression by governments can reduce or obscure the perceived level of violations.
- 37 In the last decade, a number of major TNCs have established global codes of conduct that cover worldwide operations, and include suppliers. While these primarily focus on labour standards, many of them also incorporate language on human rights protections.
- 38 Research to clarify the responsibilities and liabilities of business and other non-state entities involved in conflict-affected areas under International Humanitarian, Human Rights, and Criminal Laws includes: FAFO Institute for Applied International Studies and International Peace Academy, **Business and International Crimes: Assessing the Liability of Business Entities for Grave Violations of International Law**. Oslo: FAFO AIS, 2005; and Jean-Marie Henckaerts and Louise Doswald-Beck, **Customary International Humanitarian Law**, Volume 1, Rules. International Committee of the Red Cross. Cambridge; Cambridge University Press, 2005

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About The UN Global Compact

The UN Global Compact is an international voluntary initiative that brings companies together with United Nations agencies, labour and civil society to support ten principles in the areas of human rights, labour, the environment and anti-corruption.

As a voluntary initiative using dialogue and learning to help improve companies' environmental, social and governance performance, the United Nations Global Compact has a long record of advocacy and engagement on the role of business in conflict resolution and peace-building. This workstream is rooted in the assumption that the private sector can be a potentially valuable partner in conflict prevention and post-conflict reconstruction efforts. Raising awareness and mobilizing the private sector around universal values can thus help mitigate negative impacts and make a meaningful contribution to sustainable peace.

Beginning in 2001, the UN Global Compact has been leading efforts to foster constructive dialogue between business and other stakeholders on these issues and has developed a number of practical resources to support participating companies in adopting and implementing conflict-sensitive business practices. At the same, the UN Global Compact Office has been supporting efforts by several of its Local Networks to take this work forward.

As engagement on the ground is progressing, the UN Global Compact Office is embarking on a process that will make a contribution to the ongoing investment-divestment debate. Working with a wide network of experts from the investment community, business, civil society, academia, the public policy community, governments, and the UN System, the objective is to develop policy guidance to clarify what constitutes Responsible Investment in Conflict-Affected Countries. A new publication, to be launched in 2010, will outline ways of better identifying and mitigating investor risks and help companies from different sectors to better understand the expectations, risks and rewards of responsible business practices in conflict-affected countries around the world. It will also explore the conditions under which private investment may lead to economic development and peace.

The ten principles of the United Nations Global Compact

Human rights

- Principle 1** Businesses should support and respect the protection of internationally proclaimed human rights; and
Principle 2 make sure that they are not complicit in human rights abuses.

Labour

- Principle 3** Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
Principle 4 the elimination of all forms of forced and compulsory labour;
Principle 5 the effective abolition of child labour; and
Principle 6 the elimination of discrimination in respect of employment and occupation.

Environment

- Principle 7** Businesses are asked to support a precautionary approach to environmental challenges;
Principle 8 undertake initiatives to promote greater environmental responsibility; and
Principle 9 encourage the development and diffusion of environmentally friendly technologies

Anti-corruption

- Principle 10** Businesses should work against corruption in all its forms, including extortion and bribery.