



## UNITED NATIONS MECHANISMS FOR COMBATING ILLEGAL TRADE IN REGIONS OF CONFLICT

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Illegal trade in natural resources and arms materiel has become the lifeblood of contending factions involved in conflicts throughout Africa. Charles Taylor, exiled former leader of Liberia, is said to have earned some \$100 million a year in revenue from illicit trade.<sup>1</sup> The Sierra Leonean rebel group, Revolutionary United Front (RUF), controlled over ninety percent of the country's diamond mines by 2000<sup>2</sup> and earned \$70 million through diamond exports in 1999 alone.<sup>3</sup> The National Union for the Total Independence of Angola (UNITA), the rebel force that controlled a large area of Angola<sup>4</sup> throughout the 1990s, sustained its fight against the Angolan government with an estimated \$5 billion in diamond revenues,<sup>5</sup> despite UN Security Council sanctions aimed at reining in trade in UNITA diamonds. When the average Sierra Leonean, Liberian, or Angolan earns less than \$5 a day it is evident why illicit trade is both tempting and lucrative for organizations seeking political power.<sup>6</sup>

Those who bear the brunt of exploitation-fueled conflict are usually the least culpable—civilian members of the local populations. Protracted conflicts in Liberia, Sierra Leone, the Democratic Republic of Congo (DRC), Angola, and Somalia have featured notorious brutality against civilians, swells of people displaced from their homes, abduction of children for use as soldiers, and sexual exploitation. The numbers of people impacted by these wars are startling:

- In the DRC, conflict-related deaths in the past six years as a result of the conflict are “about equal to the population of Ireland,” says one International Rescue Committee official.<sup>7</sup>
- In Angola, the war displaced a third of the population between 1998 and 2002.<sup>8</sup>
- In Sierra Leone, the ten-year civil war between the government and the RUF has brought about an estimated 50,000 victims of rape (often gang-rape) by rebel soldiers and some 4,000 amputees as a result of rebel machete attacks.<sup>9</sup>

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<sup>1</sup> Tom Kamara, “The Liberian Horror Film We Didn’t Miss,” *The Perspective.org*, <[www.theperspective.org/channel4.html](http://www.theperspective.org/channel4.html)> (August 23, 2000).

<sup>2</sup> Timelines of History, “Timeline Sierra Leone,” <[www.timelines.ws/countries/SIERLEON.HTML](http://www.timelines.ws/countries/SIERLEON.HTML)>.

<sup>3</sup> World Bank, *Conflict Diamonds*, Africa Region Working Paper Series no. 13 (March 2001): paragraph 63.

<sup>4</sup> Action for Southern Africa, “Next Stage Administrative Control,” *Angola Peace Monitor* 3, no. 4 (December 1996).

<sup>5</sup> John Cherian, “The End of Savimbi,” *Frontline* (Madras) 19, no. 5 (March 2002).

<sup>6</sup> “From Chaos, Order,” *The Economist* (March 3, 2005).

<sup>7</sup> Thilo Thielke, “The Forgotten War,” trans. C. Sultan, *Der Spiegel* (February 5, 2005).

<sup>8</sup> Jeremy Harding, “The Late Jonas Savimbi,” *London Review of Books* 24, no. 6 (March 21, 2002).

<sup>9</sup> Austin Merrill, “Amputees Get New Home, New Life,” International Monitor Institute, <[www.imisite.org/index\\_news.php?id=221](http://www.imisite.org/index_news.php?id=221)> (May 2, 2005).

Illegal resource exploitation also has long-term impacts. Liberia's logging industry generates as much as \$100 million a year for those controlling the trade;<sup>10</sup> little of this, however, extends to the 80 percent of the population living in poverty.<sup>11</sup> Lack of legitimate trade diminishes the ability of the Liberian government to raise revenue to support its own functions. Current logging activity also has implications for future generations of Liberians: loss of forest land prompts migration into already densely populated and economically depressed urban areas, and the profitability of logging makes it a favored pursuit over food production, exacerbating the current problem of Liberia's reliance on high-cost imports.<sup>12</sup>

The DRC is abundant in natural resources, including diamonds, gold, and timber. With its vast size, roughly equal to two-thirds the size of Western Europe, the DRC has the potential to be one of Africa's most prosperous nations. As a result of the fighting and rampant plundering of its natural resources, it is instead among the world's most impoverished countries. The International Rescue Committee reports that 1,000 Congolese die each day due to the conflict, not as direct victims of violence but mostly from curable illnesses such as malaria and diarrhea.<sup>13</sup> The havoc wreaked upon the country's economy and infrastructure will reverberate for years to come.

In conflict-ridden countries such as the DRC, illicit trade serves as an incentive for armed groups to resist peace agreements and as a drain on the finances and authority of the central government. Even after violence in a particular state subsides, the financial networks that arose during the conflict often remain. They can sap power from the central government, contribute to corruption, hinder economic development, create perverse incentives towards crime and violence, and perhaps most troublingly, lay the seeds for future hostilities. Illicit trade is both a symptom and a cause of state decay, generating a vicious circle of crime and violence that can be exceedingly difficult for states to escape without outside help.

Outside assistance in eradicating illicit trade comes in many forms, from peace operations that separate, monitor and disarm former combatants (and in some cases punish those who violate peace agreements), to civilian peacebuilding efforts that build up a state's law enforcement capacity. Peacebuilding efforts stumble, however, without a concerted effort to address the underlying financial networks that fueled conflict in the first place. Targeted UN sanctions and the Panels of Experts that the UN appoints to monitor them represent two such institutional efforts.

UN Panels of Experts (or sometimes Monitoring Mechanisms, Teams, Groups, or Group of Experts) are small teams of experts sent to investigate violations of UN sanctions and to recommend remedies for the violations. They provide extensive reports to the Security Council documenting the who, what, where, when, and why of sanctions violations. In addition to explaining the basis for the Panels' conclusions and supplying recommendations for preventing violations, the reports often illustrate the overall political and economic climate of their country of study. The better reports can provide an invaluable glimpse into the underlying economic geography of particular conflicts, and offer tough recommendations for

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<sup>10</sup> William Kistner, "Timber Trade Fuels Liberia's Misery," San Jose Mercury News (August 10, 2003).

<sup>11</sup> Central Intelligence Agency, "Liberia," *The World Factbook*, April 21, 2005, <[www.cia.gov/cia/publications/factbook/print/li.html](http://www.cia.gov/cia/publications/factbook/print/li.html)> (May 2, 2005).

<sup>12</sup> Tom Kamara, "Sadam's Oil and Taylor's Timber," *ThePerspective.org* April 21, 2001, <[www.theperspective.org/saddam\\_taylor.html](http://www.theperspective.org/saddam_taylor.html)> (March 30, 2001).

<sup>13</sup> Dr. Ben Coughlin et al., "Mortality in the Democratic Republic of Congo: Results from a Nationwide Survey, Conducted April – July 2004," *Burnet Institute and the International Rescue Committee* (2004): iii.

putting a halt to illegal behavior. Their effectiveness, however, depends to a large extent on the degree to which their findings are acknowledged and their recommendations implemented.

This backgrounder will describe the UN sanctions and UN Panel of Experts and their role in responding to lucrative and deadly trade in regions of conflict. It will first provide a brief background on the history of UN sanctions and of how targeted sanctions became one of the UN's primary tools for stopping violent conflict. It will then discuss obstacles to the effective implementation of sanctions, from the ambivalence of member states to the lack of sufficient enforcement mechanisms. Finally, it will address the menu of options available to the UN for implementing sanctions, including the Panels of Experts, and the strengths and weaknesses of each.

### **Targeted Sanctions as the UN's Main Weapon against Illicit Trade**

The UN's chief measure for stemming illegal trade has been to impose sanctions, authorized by the Security Council. Council sanctions have prohibited trade in natural resources (such as diamonds) and commodities (such as arms) that generate funding for or otherwise support those involved in illicit trade, dictatorial or illegitimate rule, or violent rebellion against an existing government. There has been a sharp increase in the use of sanctions over the past decade: while the Security Council only used sanctions for political persuasion twice during the Cold War era (against Rhodesia in 1966 and South Africa in 1977), the Council has subjected more than a dozen nations to partial or comprehensive sanctions since 1990. Additionally, UN Member States imposed unilateral, bilateral, or regional sanctions roughly 40 times in the same period.<sup>14</sup>

The various Security Council sanctions regimes have not uniformly restricted the same goods or activities. The measures applied against Saddam Hussein's dictatorship in 1990 have in some ways constituted the Council's menu of options throughout the post-Cold War spate of sanctions. That sanctions regime included a ban on all trade with Iraq, specific embargoes on the supply to or receipt from Iraq of arms and oil, suspension of travel to and from Iraq, and the freezing of all financial assets of or financial transactions by members of Hussein's government.<sup>15</sup>

A major impact of the sanctions regime against Iraq was to highlight the potentially damaging effects of sanctions on local populations. According to the World Health Organization, UN sanctions limited the inflow of goods to Iraq so dramatically that the country's infant mortality rate doubled from pre-sanctions levels and the mortality rate of children between 1 and 5 years old increased six-fold.<sup>16</sup> Sanctions were not the sole cause of the humanitarian crisis: the decline in living standards of Iraqis during the 1990s was also due in part to the damage done to Iraq's infrastructure during the Gulf War and to Hussein's repeated rejections of options for alleviating the problem.<sup>17</sup> However, the situation in Iraq raised concern among the international community over the implementation of sanctions.

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<sup>14</sup> David Cortright and George A. Lopez, *The Sanctions Decade: Assessing UN Strategies in the 1990s* (Boulder, CO: Lynne Rienner, 2000), pp. 1-2.

<sup>15</sup> *ibid.*, pp. 37-40.

<sup>16</sup> World Health Organization, "The Health Conditions of the Population in Iraq since the Gulf Crisis," (March 1996): section 4, Impact on Child Malnutrition.

<sup>17</sup> Many of these sanctions, it should be noted, had less to do with outsiders' efforts at suppressing ongoing violent conflict than with certain states' desire to punish foreign regimes without resorting to warfare, or stem the spread of weapons of mass destruction. David Cortright and George A. Lopez, *Sanctions and the Search for Security: Challenges to UN Action* (Boulder, CO: Lynne Rienner, 2002), p. 27.

In response to these critiques, the Security Council has evolved to implement measures more pointedly targeted at punishing the individuals engaged in the acts that the Council wishes to stop. These “smart sanctions,” widely referred to as targeted sanctions, aim to direct political pressure more narrowly at the “bad guys” and reduce the negative fall-out of sanctions for the local population. Targeted sanctions efforts include boycotts on specific commodities (such as oil, diamonds, and timber products), travel bans, restriction on aviation, assets freezes, arms embargoes, and diplomatic restrictions.<sup>18</sup>

All of the sanctions regimes imposed on Sub-Saharan African countries since 1990 have been targeted sanctions. Somalia became the first country in this region to receive sanctions when the Security Council imposed an arms embargo on the nation in January 1992, after factional conflict there erupted into civil war.<sup>19</sup> An arms embargo against Liberia followed in November of that same year. The Council went on to impose similar arms embargoes on Angola (1993), Rwanda (1994), Sierra Leone (1997), Ethiopia and Eritrea (1999),<sup>20</sup> the DRC (2003), Côte d’Ivoire (2004) and Sudan (2004). The Council has also been willing to impose sanctions against the transfer of high-value natural resources to or from nations suffering from resource-related conflict: timber products in Liberia; petroleum products in Liberia and Angola; and diamonds in Liberia, Angola, and Sierra Leone.<sup>21</sup> Selective travel bans have been imposed on specified individuals in Liberia, Angola, Sierra Leone, and Côte d’Ivoire. Financial assets freezes have accompanied the travel restrictions in all nations but Sierra Leone.

## Obstacles to Effective Implementation of Sanctions

### *The UN Structure for Implementing Sanctions*

While the Security Council has increased the use of targeted sanctions, it has faced difficulties in enforcing those sanctions. One problem with effective enforcement arises from the UN structure for sanctions implementation.

To oversee the implementation of sanctions by UN member states, the Security Council establishes a sanctions committee. The sanctions committees are subsidiary bodies of the Security Council. Each Council member appoints a representative to sit on each committee and the committee chooses a chairman and vice-chairmen from among these representatives.<sup>22</sup> These committees are not usually chaired by the Permanent Five members of the Security Council.<sup>23</sup>

The sanctions committees receive requests for assistance, monitor developments related to the sanctions regimes, and make recommendations based on their regular assessments of reports from donor states and international organizations. Sanctions committees also provide support to and review the reports of the Panels of Experts and Monitoring Mechanisms, as explained later in this paper.<sup>24</sup> The sanctions

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<sup>18</sup> United Nations, “Security Council Sanctions Committees Website: An Overview,” <[www.un.org/Docs/sc/committees/INTRO.htm](http://www.un.org/Docs/sc/committees/INTRO.htm)>.

<sup>19</sup> All arms embargoes in Sub-Saharan Africa, as is generally true of UN arms embargoes, have also prohibited the supply of all types of military equipment and technical assistance.

<sup>20</sup> The arms embargo against Ethiopia and Eritrea was voluntary, meaning that UN Member States were only requested, not required by the UN Charter, to abide by the Security Council resolution calling for the embargo.

<sup>21</sup> The fact that sanctions against the DRC do not target trade in the country’s natural resources is addressed later in this paper.

<sup>22</sup> United Nations, “Note by the President of the Security Council,” S/1998/1016 (October 30, 1998).

<sup>23</sup> United Nations, “Note by the President of the Security Council,” S/2005/3 (January 5, 2005).

<sup>24</sup> David Cortright and George A. Lopez, eds., *Smart Sanctions: Targeting Economic Statecraft* (Lanham, MD: Rowman and Littlefield, 2002), p. 196.

committees have further responsibility for maintaining and updating lists of sanctioned individuals and entities. Another task of the sanctions committees is to consider requests for humanitarian and other types of exemptions to sanctions measures.<sup>25</sup> Finally, Sanctions Committees provide information on sanctions to the general public.<sup>26</sup>

A conference to review and analyze UN processes for implementing sanctions took place in Stockholm in 2003. The Stockholm Process, successor to the Interlaken and Bonn-Berlin Processes, convened experts to produce practical guidelines for strengthening the implementation of targeted sanctions. The resulting Stockholm Process manual outlines existing weaknesses in the implementation processes and recommends steps towards increasing their efficacy. The members of the Stockholm Process proceeded from the assumption that effective sanctions implementation must occur through a “chain of actions involving all levels of decision making,” an indication that current levels of integration among the different actors in the sanctions implementation process are deficient.<sup>27</sup>

One problem facing the sanctions committees is that they are simply overstretched in their responsibilities. The Stockholm Process manual raised the point that although sanctions are similar to peacekeeping operations as a UN tool for promoting international peace and security, the UN has no institutional equivalent the to Department of Peacekeeping Operations (DPKO) for implementing sanctions.<sup>28</sup> The Sanctions Committees are sometimes further impeded by “poorly specified or incomplete” Security Council mandates. As a result, claims the manual, the Committees are often restricted to focusing on the central tasks of sanctions implementation—reviewing reports on member state actions and Panel findings—and forced to give low priority to broader coordination and information-sharing among other relevant actors, such as other international organizations (including governmental, non-governmental, regional, and sub-regional), the private sector, and media agencies.<sup>29</sup>

#### *Getting all actors on board with Council edicts*

Since sanctions aim to prevent certain groups from garnering the funds necessary to sustain their activities, just a few potential partners willing to violate Council dictates can severely undercut sanctions. The Council, for example, endeavored to shrivel UNITA’s networks by calling for member states to close all UNITA offices in their countries and to ban its representatives from traveling outside of Angola. But these restrictions lacked the desired impact because officials in Zambia, Togo, and Rwanda—to name a few countries—harbored or met with UNITA officials in violation of the Council’s travel ban.<sup>30</sup>

Facilitators of sanctions violations are not only found in neighboring or regionally proximate nations. Reports from the UN Panels of Experts in Liberia revealed that the Belgrade-based company Temex

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<sup>25</sup> A typical example of a humanitarian exemption to a sanctions regime is to waive temporarily a travel ban on an individual who must seek immediate health care outside his own country.

<sup>26</sup> Peter Wallensteen, Carina Staibano, and Mikael Eriksson, *Making Targeted Sanctions Effective: Guidelines for the Implementation of UN Policy Options, Results from the Stockholm Process on the Implementation of Targeted Sanctions* (Uppsala: University of Uppsala, 2003), pp. 13-15.

<sup>27</sup> *ibid.*, p. iv.

<sup>28</sup> *ibid.*, p. 15.

<sup>29</sup> *ibid.*, p. 29.

<sup>30</sup> United Nations, *Report of the Panel of Experts on Violations of Security Council Sanctions Against UNITA*, S/2000/203 (March 10, 2000), paragraphs 139-154.

illegally routed weapons through both the DRC and Nigeria for sale in Liberia.<sup>31</sup> One report claimed “it is not an exaggeration” to estimate that Temex received profits between \$3 million and \$4 million from just six arms shipments to Liberia.<sup>32</sup>

The Stockholm Process manual also addressed the problem of member state compliance with UN mandates on sanctions. Member states may lack a sense of involvement in the sanctions process and feel little ownership over sanctions implementation. Only UN Security Council members vote on sanctions, yet the UN Charter obligates all member states to enforce them. Efforts of the sanctions committees to engage member states through briefings or consultations have been irregular. As a result, one recommendation to come out of Stockholm was for the sanctions committees to inform all UN member states of sanctions-related developments more frequently and more deliberately. However, the manual also acknowledged that an increase in information dissemination alone would probably not sufficiently boost ownership and compliance among non-Council states. For sanctions implementation to be dramatically improved, the manual states that “more sustained engagement” of member states will be necessary.<sup>33</sup> The Stockholm Process also noted that many member states will also require technical and financial assistance in order to develop the capacity for effective implementation of sanctions requirements.<sup>34</sup>

The UN Counter-Terrorism Committee (CTC) represents one potential model for augmenting the sanctions committees’ consultative and technical assistance capacities. The CTC requires all UN member states to submit reports on their activities to implement Security Council resolution 1373, which calls for the denial of financing to terrorist groups, the suppression of terrorist safe havens, and the sharing of information on terrorist activities, among other measures, all under the legally-binding Chapter VII clause of the UN charter. The CTC then engages member states in a process of consultation and review. It evaluates member states’ reports, pointing out the measures necessary for each state to achieve compliance with UN Security Council Resolution 1373 (such as changes in domestic legislation and improved enforcement capabilities). Legislative and technical experts then provide assistance to member states as they attempt to implement these measures.<sup>35</sup>

One could imagine UN sanctions committees mimicking aspects of this process by following up with member states, regional organizations and non-governmental organizations on their efforts to implement targeted sanctions. The use of Chapter VII in Panel of Experts’ mandates, which now appears to be standard practice, could give such efforts added authority. In addition to reporting on illicit activities, UN experts could offer strategic advice to states attempting to improve control over borders, state authority over resource flows, air traffic control and other capacities critical to sanctions implementation. The effectiveness of such a regime, however, would depend on the goodwill of member states. Such an approach may prove less effective in situations where the illegal expropriation of natural resources is a lucrative avenue for state financing.

#### *Weak mechanisms within nations for enforcing sanctions*

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<sup>31</sup> United Nations, *Report of the Panel of Experts established pursuant to paragraph 25 of Security Council resolution 1478 (2003) concerning Liberia*, S/2003/937 (October 28, 1993), and United Nations, *Report of the Panel of Experts established pursuant to paragraph 4 of Security Council resolution 1458 (2003) concerning Liberia*, S/2003/498 (April 24, 2003).

<sup>32</sup> S/2003/937, paragraph 90.

<sup>33</sup> Wallenstein, Staibano, and Eriksson, pp. 15-17.

<sup>34</sup> *ibid.*, pp. 56-57.

<sup>35</sup> United Nations, “About the Counter-Terrorism Committee,” <[www.un.org/Docs/sc/committees/1373/](http://www.un.org/Docs/sc/committees/1373/)>.

Making sanctions stick is challenging on several levels. Persistent obstacles to enforcing sanctions are porous borders, corruption, weak institutional capacity, political strife, dangers arising from conflict, and poor infrastructure. There is strong evidence, for example, that sanctions on Liberian timber exports are being violated by the transport of logs across Liberia's borders with Côte d'Ivoire and Guinea.<sup>36</sup> The London-based non-governmental organization (NGO) Global Witness interviewed representatives of Liberia's Forestry Development Authority (FDA) in the region to see if they were investigating the charges of illegal exportation. In 2004 for example, no such investigation had occurred because of "logistical shortcomings" and the FDA staff members' fear of armed ex-combatants involved in the sanctions-busting activities.<sup>37</sup> This is one example of how problems plaguing sanctions implementation are often circular: inadequate institutions beget ill-equipped law enforcement mechanisms, which weaken governmental control over its territories, decreases stability, and increases the challenges facing the institutions that are too poorly resourced to deal with the country's problems in the first place. Such instability in one country, furthermore, can redound to volatility throughout the region. Timber smuggled into Côte d'Ivoire from Liberia, for example, is facilitating conflict there because warring Ivorian entities resell the timber to fund their respective campaigns.<sup>38</sup>

In the DRC, limited governmental control over the country has led to violations of the UN arms embargo by pseudo-politicians. In November 2004, Human Rights Watch issued a warning that local government officials had supplied civilians with weapons in the troubled eastern regions of Ituri and North and South Kivu.<sup>39</sup> The fact that local leaders are distributing weapons without Kinshasa's approval supports the claim of the most recent report by the UN Panel of Experts that the area's politicians and warlords, sustained by income generated by illicit trade networks, exercise ultimate control over this region of the DRC.<sup>40</sup> The report also maintained that "even in areas where a semblance of homage is paid to the Transitional Government in Kinshasa," local military and political actors periodically demonstrate their ability to "flex their military muscle" in the region, even should their decisions run counter to the wishes of the central government.<sup>41</sup>

## UN Tools to Combat Illicit Trade in Conflict Areas and Uphold Sanctions

### *Panels of Experts*

Although officially housed within the UN's Department of Political Affairs (DPA), the Panels of Experts operate almost wholly independent of the UN Secretariat. Each Panel reports to its respective sanctions committee and is responsible for interpreting its mandate and determining its own investigative methodology. The Panels brief the sanctions committee frequently during the course of investigations, and consult regularly on their progress and the nature of their research. Following publication of the Panel's report, the sanctions committee reviews its findings and sends the report to the

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<sup>36</sup> From allegations made in separate reports issued in 2004 by the UN Panel of Experts in Liberia, Global Witness, and the Save My Future Foundation (SAMFU), a Liberian non-governmental organization.

<sup>37</sup> Global Witness, *Dangerous Liaisons: The Continued Relationship Between Liberia's Natural Resource Industries, Arms Trafficking and Regional Insecurity*, A briefing document submitted by Global Witness to the UN Security Council, 8 December 2004 (Global Witness, 2004), p. 10.

<sup>38</sup> *ibid.*

<sup>39</sup> Human Rights Watch, "DRC: End Arms Flows as Ethnic Tensions Rise," November 19, 2004, <[www.hrw.org/doc/?t=arms](http://www.hrw.org/doc/?t=arms)> (March 2005).

<sup>40</sup> United Nations, *Letter dated 4 January 2005 from the Group of Experts on the Democratic Republic of the Congo addressed to the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004)*, S/2005/30 (January 25, 2005), paragraph 35.

<sup>41</sup> *ibid.*, paragraph 26.

Security Council. Panels of Experts reports are frequently followed by UN resolutions expanding, eliminating, or clarifying a particular sanctions regime.

The information the Panels provide has been generally hailed as valuable and reliable by the UN and NGOs. Some Panels are regarded as more insightful or informative than are others, and some governments and actors implicated in the Panels' reports have cried foul in response to the allegations lobbied against them in the reports.

Lackluster implementation of Panel recommendations, however, has struck a severe blow to the value of their work. Inaction in response to Panels' findings decreases the threat that the Panel reports intend to pose. Investigative reporter Doug Farrah, former Washington Post bureau chief in West Africa, spent considerable time in Sierra Leone and was there during Panel investigations in that country. He reports that Sierra Leonean officials were initially very concerned over the release of the first Panel report on illicit activities there. After time went by without repercussions from the Security Council, these same officials became complacent in the face of the Panels' allegations.<sup>42</sup>

### *International regulation: The Example of Diamonds*

Recognizing the global scope of the problem of illegal networks, the UN has increasingly shown support for efforts to tighten international regulation of conflict-related trade. The Kimberley Process Certification Scheme (KPCS) is one such initiative. The Kimberley Process, named for the South African city where representatives of the diamond industry and NGOs first convened to devise the scheme, aims to regulate the global flow of rough diamonds by establishing minimum requirements upon which inclusion in the scheme is contingent.<sup>43</sup> The UN Security Council expressed its approval of the process in Resolution 1453, adopted in January 2003. By prohibiting Kimberley Process participants from trading diamonds with countries that have not met the scheme's basic requirements, there is incentive for nations to ensure that their regulatory measures achieve Kimberley Process standards.<sup>44</sup> Forty-two countries—nearly all of the world's diamond producers, exporters, and importers—participate in the Kimberley Process, which also has the support and cooperation of the World Diamond Council (the chief organization representing the diamond industry) and a number of NGOs and civil society organizations.

The Process requires that all parcels of diamonds traded among its participants have a Kimberley Certificate guaranteeing that they are conflict-free. Among the other minimum requirements of Kimberley are that diamonds be traded in tamper-proof containers and that governments collect and share statistical information on trade and production of rough diamonds.<sup>45</sup>

The Kimberley Process may be a step in the right direction towards eliminating conflict diamonds. The government of Sierra Leone, a country infamous for illicit diamond-trading networks, released statistics showing an increase from \$7.6 million in diamond export revenue collected during 2003 to \$12.9 million for 2004, for which a recent UN report gives credit to Sierra Leone's implementation of Kimberley.<sup>46</sup> Another development perceived as a sign of Kimberley's progress was the expulsion of

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<sup>42</sup> From an April 7, 2005 roundtable at the Stimson Center, comments by Douglas Farrah.

<sup>43</sup> The Kimberley Process, <[www.kimberleyprocess.com](http://www.kimberleyprocess.com)>, Background.

<sup>44</sup> *ibid.*

<sup>45</sup> Global Witness, *Broken Vows* (Washington, DC: Global Witness Publishing Inc., March 2004), p. 9.

<sup>46</sup> United Nations, *Twenty-fourth report of the Secretary-General on the United Nations Mission in Sierra Leone, S/2004/965* (December 10, 2004).

the Republic of Congo (ROC) from the scheme last July. This is regarded as a positive response to the critique that Kimberley’s architects made no provisions for punishing those who do not adhere to the scheme’s requirements.<sup>47</sup>

Kimberley, however, is not a panacea for the problem of conflict diamonds. The Process calls for measures—such as the attachment of certificates at the point of export and the use of tamper-proof containers in diamond transporting—which focus mostly on the transfer of diamonds between nations. The Process is problematic when it comes to tracking the history of the diamonds before they reach the point of export, however, because each participant country has the responsibility for devising its own system of domestic diamond regulation.<sup>48</sup>

Kimberley participants have marching orders to “establish a system of internal controls designed to eliminate the presence of conflict diamonds from shipments of rough diamonds imported into and exported from its territory.”<sup>49</sup> But the particulars of how each participant should proceed in this regard are murky. The scheme’s recommendations for enacting internal control of diamonds get no more specific than to say:

Participants are encouraged to ensure that all diamond mines are licensed and to allow only those mines so licensed to mine diamonds;

Participants are encouraged to ensure that all cash purchases of rough diamonds are routed through official banking channels, supported by verifiable documentation;

All artisanal and informal diamond miners should be licensed and only those persons so licensed should be allowed to mine diamonds.<sup>50</sup>

While these guidelines for regulating diamonds may seem intuitive and basic, implementing them can be overwhelmingly difficult. Eight—nearly twenty percent—of Kimberley participants are designated “least developed countries”<sup>51</sup> (LDCs) by the UN. Another seven nations on Kimberley’s participant list qualify as “developing nations” but fall just shy of meeting the criteria for LDC status.<sup>52</sup> Even economic powerhouses such as Belgium, Canada, the United Kingdom, and the US have merited criticism for weaknesses or loopholes in their regulatory systems.<sup>53</sup>

Exerting domestic control over diamonds is especially difficult in countries with large amounts of alluvial diamonds, such as Sierra Leone, Angola, and the DRC.<sup>54</sup> Alluvial diamonds are concentrated in sand and gravel along streambeds and riverbeds. This makes extracting them a relatively easy,

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<sup>47</sup> Global Witness, “The Kimberley Process Gets Some Teeth: The Republic of Congo is Removed from the Kimberley Process for Failing to Combat the Trade in Conflict Diamonds,” <[globalwitness.org/press\\_releases/display2.php?id=248](http://globalwitness.org/press_releases/display2.php?id=248)> (July 9, 2004).

<sup>48</sup> Global Witness, *Key to Kimberley Report: Internal Diamond Controls, Seven Case Studies* (Global Witness Publishing Inc., October 2004), p. 1.

<sup>49</sup> The Kimberley Process, <[www.kimberleyprocess.com](http://www.kimberleyprocess.com)>, Kimberley Process Certification Scheme, section IV.

<sup>50</sup> *ibid.*, section II.

<sup>51</sup> United Nations, “List of Least Developed Countries,” *UN Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States*, <[www.un.org/special-rep/ohrls/ldc/list.htm](http://www.un.org/special-rep/ohrls/ldc/list.htm)> (May 4, 2005).

<sup>52</sup> The eight Kimberley participants with LDC status are Angola, DRC, Democratic Republic of Lao, Guinea, Lesotho, Sierra Leone, Tanzania, and Togo. The seven Kimberley participants classified as “developing countries,” but which are close to meeting the criteria for LDC status, are the People’s Republic of China, Côte d’Ivoire, Guyana, India, Sri Lanka, Vietnam, and Zimbabwe.

<sup>53</sup> Global Witness, *Key to Kimberley*.

<sup>54</sup> *ibid.*, p. 2.

inexpensive, and low-technology endeavor, particularly compared to the underground mining needed for diamonds located in bedrock.<sup>55</sup> As a result, alluvial mining operations are extremely difficult to police, regulate, and tax, meaning that governments are unlikely to derive substantial revenue from alluvial diamond deposits. The fact that alluvial mining is usually both commonplace and informal also means that workers recruited for these operations receive little compensation.<sup>56</sup>

Also missing from Kimberley are provisions for a systematic, reliable, and impartial review of participants' diamond control practices.<sup>57</sup> An attempt to amend that exclusion from the scheme came in October 2003, when participants agreed to implement a peer review process. Yet praise for this decision should be guarded. The success of these reviews will be dependent upon the regularity and thoroughness with which they are conducted.<sup>58</sup> Unless some of Kimberley's shortcomings can find remedy in the future, there is risk of the scheme lying fallow and the opportunity to reduce conflict diamonds being squandered.

### *Peacekeeping operations*

The potential for UN peacekeeping operations to play a role in hampering sanctions violations and conflict-fueling trade is also gaining attention. The United Nations Mission in Liberia (UNMIL) has assisted in enforcing Security Council travel bans on Liberian officials by stationing UNMIL civilian police officers at Robertsfield International Airport to supervise and enhance security procedures.<sup>59</sup> The United Nations Mission in Sierra Leone (UNAMSIL) has supported sanction enforcement efforts there by deploying military personnel to the area of Kamakwie, where new diamond mines were discovered in early 2004. The security provided by UNAMSIL personnel undergirds the efforts of Sierra Leonean government officials to identify and register new workers coming to work in the Kamakwie mines, which, in turn, helps prevent siphoning of diamonds to rebel groups.<sup>60</sup> The United Nations Mission in the Democratic Republic of Congo (MONUC) has recently decided to include enforcement of the arms embargo among its core priorities, a move lauded by the report from the Panel of Experts on the DRC of January 2005.<sup>61</sup>

The mandates of some peace operations have expanded to direct peacekeepers more explicitly in fighting illicit trade. The initial mandate of UNMIL, issued in resolution 1530 in September 2003, gave instructions "to assist the transitional government in restoring proper administration of natural resources,"<sup>62</sup> making UNMIL the first peace operation to include such a component in its mandate.<sup>63</sup> The Security Council included for the first time in its September 2004 renewal of the UNAMSIL

<sup>55</sup> American Museum of Natural History, "The Nature of Diamonds," <[www.amnh.org/exhibitions/diamonds/composition.html](http://www.amnh.org/exhibitions/diamonds/composition.html)> (May 5, 2005), Mining and Distribution.

<sup>56</sup> Global Witness, *Rich Man, Poor Man, Development Diamonds and Poverty Diamonds: The Potential for Change in the Artisanal Alluvial Diamond Fields of Africa*, (Ottawa and Washington, DC: Partnership Africa Canada and Global Witness Publishing Inc., 2004), p. 6.

<sup>57</sup> Global Witness, *Broken Vows*, p. 9.

<sup>58</sup> *ibid.*, p. 10.

<sup>59</sup> United Nations, *Report of the Panel of Experts pursuant to paragraph 2 of Security Council resolution 1549 (2004) concerning Liberia*, S/2004/955 (December 6, 2004), paragraph 8.

<sup>60</sup> United Nations, *Twenty-third report of the Secretary-General on the United Nations Mission in Sierra Leone*, S/2004/724 (September 9, 2004), paragraph 29.

<sup>61</sup> S/2005/30, paragraph 231.

<sup>62</sup> United Nations, *Security Council Resolution 1509* (September 19, 2003), paragraph 3(r).

<sup>63</sup> United Nations, "Reconstruction in Liberia Also Depends on Proper Use of its Natural Resources," *United Nations Mission in Liberia* (July 12, 2004), <[www.un.org/Depts/dpko/missions/unmil/pr\\_undp.pdf](http://www.un.org/Depts/dpko/missions/unmil/pr_undp.pdf)>, UNMIL Press Release.

mandate a directive to “support the Sierra Leone armed forces...in patrolling the border and diamond-mining areas.”<sup>64</sup> And for MONUC, its expanded mandate of October 2004 was the first to authorize MONUC forces to “use all necessary means, within its capacity and in the areas where its armed units are deployed” to enforce the arms embargo on the DRC.<sup>65</sup>

The Panels of Experts have been consistent proponents of increased involvement by peace operations’ personnel in inhibiting sanctions violations and curbing illicit trade. One common theme among Panel recommendations has been to increase the capacity of UN peacekeepers to tackle sanctions-busting. The most recent DRC Panel report underscored the limitations of MONUC “in terms of marine patrols and other forms of surveillance capability,” urging the Security Council to increase funding for these activities.<sup>66</sup> The report also called for greater inter-UN mission collaboration in the region, recommending for MONUC to coordinate with the United Nations Operations in Burundi (ONUB) to monitor cross-border arms trade and insurgent behavior.<sup>67</sup> Furthermore, the Panel recommended that MONUC staff receive specialized training in methods of collecting data on cross-border movement and on weapons observed or recovered.<sup>68</sup>

Further evidence exists of the need to raise the effectiveness of peace operations with regard to sanctions enforcement and conflict trade. The March 2005 report of the International Crisis Group on the crisis in the DRC’s Kivus region alleged that MONUC has not done enough to prevent illegal cross-border activity. Though MONUC has received “regular reports” of ammunition smuggling into South Kivu, ICG claims that the mission has yet to establish any presence at border crossings in the area. The report also states that MONUC has also only “hesitantly” begun to carry out the instructions of its expanded mandate in conducting random illicit goods inspections of Congolese military sites and equipment.<sup>69</sup>

Global Witness has also called for increased action by UNMIL troops. Though the UN mandate calls for UNMIL troops to aid the Liberian government in recovering control over the nation’s natural resources, Global Witness states that UNMIL still lacks the “legal authority to act as independently and proactively as they need” in order to detect and deter illicit activity. The NGO also chastised UNMIL for insufficient deployment in areas rich with diamonds and timber and, in particular, along the Liberian borders with Côte d’Ivoire, Guinea, and Sierra Leone. According to Global Witness, the weak sanctions enforcement capacity of UNMIL, coupled with the feeble governmental control over much of Liberia’s territory, fosters a mounting sense of impunity and lawlessness in the region that renders the peace process even more challenging.<sup>70</sup>

## Early Findings and Observations

In theory, UN Panels of Experts and peace operations could serve as the antidote to illicit trade. It makes sense conceptually that in-depth investigation into the who and how of smuggling and illegal resource exploitation would be the launching pad for the UN and the international community to

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<sup>64</sup> United Nations, *Security Council Resolution 1562* (September 17, 2004), paragraph 2.

<sup>65</sup> United Nations, *Security Council Resolution 1565* (October 1, 2004), paragraph 6.

<sup>66</sup> *ibid.*

<sup>67</sup> *ibid.*, paragraph 232.

<sup>68</sup> *ibid.*, paragraph 229.

<sup>69</sup> International Crisis Group, *The Congo’s Transition is Failing: Crisis in the Kivus*, Africa Report no. 91 (March 30, 2005): pp. 26-27.

<sup>70</sup> Global Witness, *Open Letter to the UN Security Council, regarding conflict resources and peacekeeping in Liberia and the Democratic Republic of Congo (DRC)*, <[www.globalwitness.org/press\\_releases/display2.php?id=281](http://www.globalwitness.org/press_releases/display2.php?id=281)> (March 18, 2005).

intervene and punish those involved. Moreover, armed peacekeeping troops on the ground can seemingly provide the muscle behind that intervention. Yet countless reports from both NGOs and the UN describe evidence that illicit trade continues unabated.

The fact that good ideas have not successfully alleviated conflict-fueling trade means that a piece is missing from the puzzle of how to solve the problem. There is a lack of commitment among UN member states to take action against illicit trade and sanctions violations. Security Council resolutions calling for travel bans, financial assets freezes, and arms embargoes are less effective when UN members fail to enforce these types of measures. To cite one example, the US Embassy in Monrovia granted a multiple-entry visa to a former Liberian Parliament member whose name was on a travel ban list—of which the Embassy was supposed to have a copy.<sup>71</sup>

Monitoring and advocacy work by NGOs can make a difference. Human rights groups in the 1990s, for example, embarked on extensive publicity campaigns centering on the concept of “blood” or “conflict diamonds.” The diamond industry eventually became deeply involved in the Kimberley Process in an effort to stave off worldwide diamond boycotts—a sign that entities are likely to be roused into action by concerns over their profits.<sup>72</sup>

In addition, the Panels of Experts mechanism for monitoring illegal trade can and should be strengthened. UN Panels of Experts have engaged in cutting-edge research and exposed heretofore unknown networks of illegal arms trafficking and resource exploitation. Much of their effectiveness is due to their independence and flexibility. They are able to operate relatively free from political pressure and bureaucratic hassles. Any reforms should preserve this independence, while continuing to require high evidentiary standards for Panel findings. Nevertheless, the Panels might benefit from increased institutional support and follow-on capacity, perhaps borrowing from the structure of the UN Counter-Terrorism Committee.

The problem of illegal trade in regions of conflict will not be solved overnight. Any comprehensive solution will involve a steady, long-term increase in the capacity of conflict-ridden states to police their borders, monitor air travel, eliminate the financial networks and organized crime syndicates abetting resource exploitation, and prosecute culpable individuals. Development and improvement of the security sector, judicial processes, political systems, and non-illicit employment opportunities will also be vital. External actors can help with this process, through the support offered by international peace operations, effective long-term capacity-building programs, and accurate external investigations of illicit activities offered by groups such as the Panels of Experts. But progress will remain slow as long as the world’s major powers view conflict in developing states as peripheral to national security interests, and fail to sufficiently acknowledge the links between resource exploitation, arms trafficking, regional instability and state failure.

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<sup>71</sup> From an April 7, 2005 roundtable at the Stimson Center, comments by Douglas Farah.

<sup>72</sup> *ibid.*