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**Critical Cooperation: An Alternative  
Form of Civil Society-Business Engagement**

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## **Critical Cooperation: An Alternative Form of Civil Society-Business Engagement**

By Jane G. Covey and L. David Brown

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### **Abstract**

Intersectoral cooperation is emerging as an important new paradigm for fostering sustainable social, political and economic development. This paper proposes that many potential joint civil society-business initiatives are marked by the presence of both conflicting and convergent initiatives. We argue that a pattern of interaction we call “critical cooperation” is particularly likely to lead to sustained constructive engagement in such situations. We suggest that creating and maintaining critical cooperation requires attention to power asymmetries, the recognition of rights, interest based negotiations and management of relations with key stakeholders. We illustrate the importance of these factors by comparing two cases of cooperation between business and civil society actors, and explore some of the implications of this analysis for future intersectoral development initiatives.

### **Intersectoral Cooperation: An Emerging Development Paradigm**

Changing expectations about the roles of the private sector, the civil society and the state in promoting a positive future create substantial challenges for each. How do business organizations come to terms with society’s evolving notions of their responsibility to a broad range of stakeholders? How do civil society actors meet growing expectations that they will catalyze the production of public goods and services on a larger and broader scale? How do government agencies set policies and conduct relations with a citizenry hungry for material, political and cultural advancement? Evolving expectations and changing roles create new opportunities for civil society-business-government engagement that will reshape each sector’s role and redefine their mutual obligations. Thus we witness a variety of results such as new business standards (e.g., SA 8000) growing demands that civil society accountability mechanisms be strengthened (e.g., Edwards, 2000) and a worldwide trend toward decentralizing public functions to local governments (Michalski. Miller and Stevens, 2001).

Coupled with shifting expectations of business, civil society and government is the notion that resolving complex social and environmental problems requires the involvement of many stakeholders and sectors. Involving government, business and civil society actors in the diagnosis and solution of societal problems is not new (Austin, 2000, Chrislip and Larson 1994; Gray 1998; Stone 2000; Trist 1983), but the concept has gained new advocates in the international development arena in the last decade. Intersectoral partnerships are promoted by a diverse chorus of advocates, from multilateral agencies like the UN Global Compact and the Business Partners for Development (a business, civil society, World Bank partnership) to bilateral aid agencies such as USAID and DFID, to business support organizations such as the Prince of Wales Business Leaders Forum and The World Business Council for Sustainable Development. Many large international NGOs, such as CARE, ActionAid and Save the Children, are

actively engaging with multinational and local corporations to support development programs. Similarly local NGOs, business and governments are cooperating in a range of joint initiatives at the local level.

Intersectoral initiatives remain fairly rare – but interest in the possibilities has grown rapidly in the last decade. Many businesses have begun to explore how strategic business interests can be served through proactive corporate citizenship and by aligning business practices with societal expectations (Freeman, 1984; Austin, 2000). Many others are interested in improving their relations with civil society actors who represent demands from human rights, labor, environmental and social justice advocates. The rise of civil society actors as important players on national and international stages (Florini, 2000; Bendell, 2000) has attracted the attention of many business leaders.

Civil society organizations have been somewhat slower to seek cooperative engagement with business organizations, though they have often engaged in protest and challenge to what they see as business abuses (e.g., Johnson, 1986). Many civil society actors remain skeptical about the potential for positive social gain through cooperation with business organizations, in part because they hold stereotypes of businesses as greedy perpetrators of social and environmental problems, and in part because they are not prepared to invent ways to make business strengths an asset to development initiatives.

This paper proposes a framework for understanding key processes in the creation of civil society-business cooperation, particularly when the parties have both converging and conflicting interests and there is not a lot of previous experience on which to build. We focus on ‘critical cooperation’ as an essential component of effective civil society business relations, and in the next section will explore processes and organizational arrangements associated with it. Then we will compare two examples of civil society-business initiatives to illustrate the challenges of critical cooperation. Finally we will return to the implications of this analysis for the creation of future joint initiatives across sectoral differences.

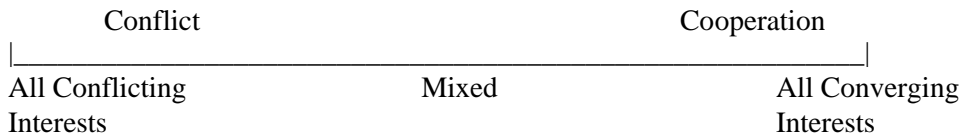
## **Theoretical Background**

This section focuses initially on situations where the parties to an engagement bring a mixture of conflicting and converging interests, and suggest that critical cooperation may be a more useful way to frame a productive relationship than the more common concepts of cooperation or conflict. We examine several approaches to managing differences – focused on power or rights as alternatives to negotiations based on interests, and suggest that in contexts of power shifts and ambiguous rights, there may be considerable debate over the utilities of power struggles, adjudication and negotiation as preferred strategies. Finally we focus briefly on organizational factors involved in creating and sustaining new forms of engagement between diverse parties.

### **Conflicting and Converging Interests**

The interests of different parties may be largely conflicting, largely convergent, or some combination of the two. The continuum of Figure 1 runs from all conflicting interests at the left pole and all converging interests at the right. At the center of this continuum are various mixtures of conflicting and converging interests. If we think of conflict as being at least in part the consequence of incompatible interests, then we might expect adversarial engagement among parties that have primarily conflicting interests, as at the left end of Figure 1, and cooperative engagement at the end that portrays converging interests. It is less immediately obvious what kind of interaction will emerge from engagement over mixed interests.

Figure 1: *Conflicting or Converging Interests*



But the middle ground of mixed interests is by far the more common situation. Certainly in most situations where civil society and business are contemplating joint action, there are some converging interests that are perceived to press for cooperative ventures that to some extent balance the perceived conflicting interests – or the parties would not be talking at all.

Figure 2 separates the single dimension of Figure 1 into two dimensions: a conflicting interests dimension that can vary from high to low, and a converging interests dimension that can also vary from high to low. The resulting two-by-two matrix includes four patterns of interaction that may be generated by different combinations of conflicting and converging interests

Figure 2: *Conflicting and Converging Interests*

	Converging Interests Low	Converging Interests High
Conflicting Interests High	Conflict	Critical Cooperation
Conflicting Interests Low	Non-engagement	Cooperation

In some circumstances, the parties have low levels of both conflicting interests and converging interests, as indicated in the lower left cell of Figure 2. When the parties have low levels of both conflicting and convergent interests, they have few incentives to interact with one another. They are in a state of *non-engagement*. When conflicting interests are high and converging interests low, *conflict* is most likely. The parties will focus on their differences and seek to protect their own interests. When converging interests are high and conflicting interests low, *cooperation* is likely. The parties will engage around common concerns and treat their differences as immaterial. Finally, when converging and conflicting interests are both high, the parties may engage in *critical cooperation* that combines both conflict and cooperation (Covey 1998) This process involves recognizing both converging and conflicting interests and engaging in cooperative or confrontive behavior as appropriate to the interests in question.

Most civil society-business relations occur on the left-hand side of this figure, where relatively few converging interests are recognized and interaction emphasizes non-engagement or conflict. There is evidence, however, of a growing tendency to recognize converging interests that present the potential for critical cooperation as business accepts a larger social role and as civil society organizations recognize the expanding roles and resources of business actors that might be used for development initiatives. Many have made the case for cooperative engagement, and documented examples of cooperation that has produced outcomes beneficial to both parties (Austin 2000; Sagawa and Segal 2000; Tennyson 1998).

Examples that focus on the combination of conflicting and converging interests have also been reported, though substantially less frequently. Observers have noted the paradoxical nature of relationships in which “partners need to acknowledge each other’s difference and work with them and against them simultaneously” (Murphy and Coleman 2000: 212). It is not easy to be simultaneously or even sequentially *both* for and against your partner. Even the most tolerant of partners is likely to be confused by a combination of cooperative and conflictive initiatives. Critical cooperation emphasizes the importance of recognizing and dealing directly with these mixed interests. If parties can learn to handle the challenges of critical cooperation, a much wider range of potential joint initiatives is available given the wide distribution of parties with mixed interests

This paper seeks to identify ingredients that are important to critical cooperation between civil society and business actors. We will focus on two elements: (1) processes for managing differences between the parties, from power struggles to adjudication to interest-based negotiation, and (2) the organizational arrangements within which those processes are embedded.

### Managing Differences

Work on conflict management and negotiation offers some useful approaches to managing the differences among parties. Conflict management theorists have pointed out that approaches to managing conflict need to be tailored to the interests of and relationships among the parties (Gray 1989; Savage, Blair et al. 1989; Thomas 1976; Walton and McKersie 1965) as well as the substance of the issues at stake. Analysts of negotiation processes have developed approaches to interest-based negotiation that emphasize exploration of interests and the construction of mutually-beneficial agreements even when the parties bring a mix of conflicting and convergent interests to the table (Fisher & Ury, 1981; Ury, Brett & Goldberg, 1988; Lax & Sebenius 1986; Raiffa 1982). Both streams of work note that it is easy for interaction in the context of mixed interests to produce “hard-ball” negotiating that restricts information sharing, focuses on narrowly-defined positions, encourages threats and escalating conflict, and often undermines the relationships among the parties (Walton & McKersie, 1965; Fisher & Ury, 1981). Common negotiating approaches are often costly, produce less than optimal results, and perpetuate conditions leading to future conflict.

Differences can be cast and managed in many different terms (Ury, Brett et al. 1988; Brown, 1983) At a very basic level, parties can test each other in terms of their *power* to determine outcomes. When unions strike for better pay or civil rights activists march against discrimination, they challenge the economic power of employers or the political power of civil rights violators to control the outcome of the dispute. In other situations, the parties may seek to frame the dispute in terms of *rights* that are accepted and enforceable in the society. Unions might invoke labor statutes and civil rights organizations might sue under Constitutional guarantees to get third party adjudication of their rights. A third approach is grounded in crafting agreements through negotiations that produce resolutions that meet the *interests* of the parties. Unions and corporations can negotiate contracts that meet the security interests of unions and the financial interests of corporations, and civil rights activists and government officials can negotiate change processes that protect legitimate interests of diverse stakeholders.

Resolving disputes and managing conflicts through use of power can be expensive and volatile. Power can be seen in terms of resources to coerce others, or abilities to control agendas and mobilize bias, or capacities to shape the awareness of parties in ways that justify decisions by some that affect others (Lukes, 1974; Gaventa, 1980). Other analyses focus on the institutionalization of power relations and the possibilities for redefining situations in ways that can mutually enhance the power of many stakeholders (e.g., Gaventa & Cornwall, 2001). When the parties disagree about who has legitimate authority to make decisions, they may engage in escalating power struggles that easily produce outcomes that are negative for all the parties, a “lose-lose” dynamic that seriously undermines the possibility of future cooperation as

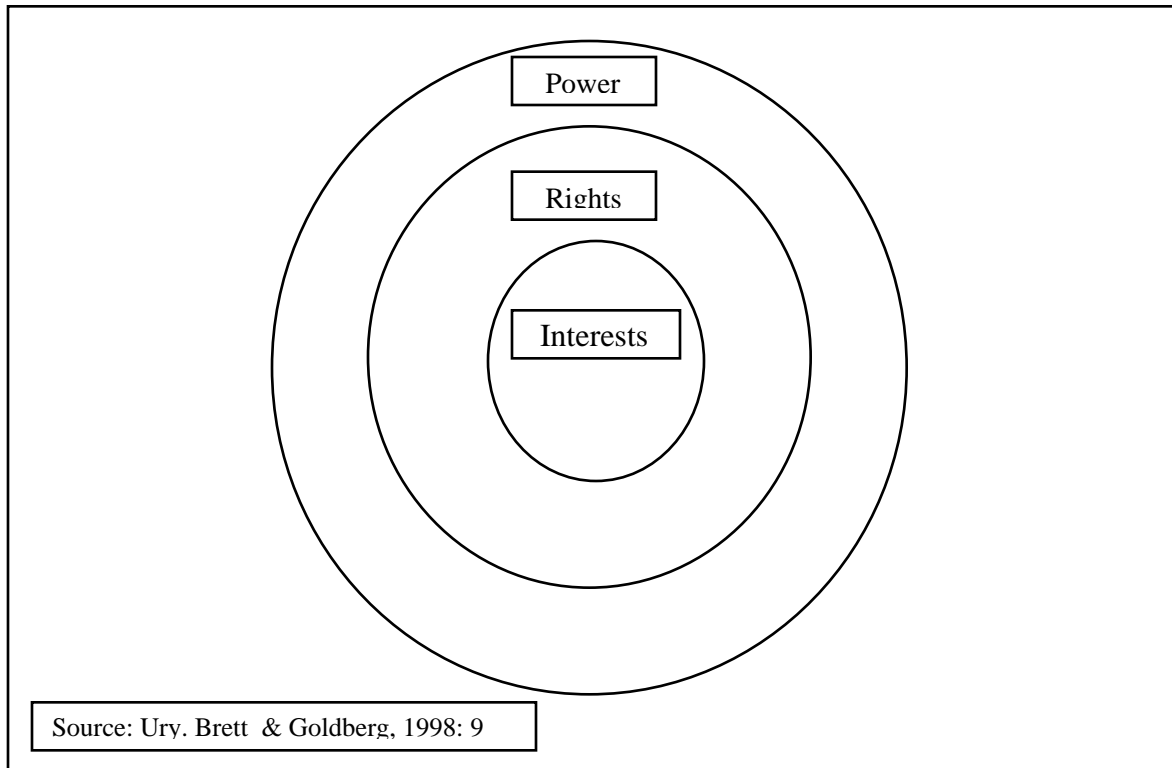
well as present agreement. The struggle between logging companies and environmental organizations in some U.S. forests, for example, has escalated into “ecotage” and conflicts that damage the interests of many parties (Reed 2001). But when parties care deeply about the outcome but do not believe that fair results can be achieved from debates over rights or interest-based negotiations, power struggles may be necessary.

Rights-based approaches are appropriate in circumstances where the rights and obligations of the parties have been defined and recognized. *Rights* are shorthand for independent standards that have the perceived legitimacy or fairness to determine who is right in the eyes of relevant stakeholders (Ury, Brett et al. 1988: 7). In some cases those rights and obligations are encoded in legislation, regulation or binding precedents that will be enforced by judicial systems – whether constitutions, court systems, councils of elders, or traditional authorities. These systems typically provide ways in which rights and their applications can be formally debated and those disputes resolved by third parties. Rights may also be important when they are conferred by socially accepted standards of behavior rather than formal legislation. But it may be more difficult to come to agreement on how to resolve disputes over socially accepted standards. When UNICEF, the ILO, North American sporting goods manufacturers, the Sialkot (Pakistan) Chamber of Commerce, and development and human rights NGOs met in Atlanta in the 1990s to carve out an agreement on ending child labor in Pakistan, they were negotiating that agreement in the absence of authoritative international mechanisms to resolve their differences, even though there is quite widespread social acceptance that child labor is not desirable. The agreement negotiated in that meeting offered a widely-shared basis for defining and protecting the rights of children (Murphy and Bendell 1997: 187). So rights embodied in legal and social standards often evolve, sometimes quite rapidly, in response to widely visible engagements over social problems to which they are relevant.

Interest-based negotiations offer opportunities to create agreements that meet key interests of all the parties. *Interests* are the needs, desires, concerns or fears of the parties in a negotiation. They underpin the more specific positions taken in a negotiation, though positions are often a very narrow interpretation of a party’s real interests. For example, a peasant with coffee to sell might focus on maximizing short-term price at the cost of creating an ongoing relationship with the buyer, and so unwittingly trade off long-term advantage for short-term gain. Negotiations focused on the interests of both parties can “expand the pie” to create “win-win” solutions by using the differences among the parties to define agreements that meet the needs of both parties (Fisher and Ury 1981; Lax and Sebenius 1989). When the parties bring both conflicting and converging interests to a negotiation, as in critical cooperation, recognizing *both* sets of interests and crafting agreements that take both sets into account is central to a sustainable and mutually beneficial agreement.

Considerable evidence suggests that interest-based negotiations are a more efficient and effective way to manage differences than rights debates or power struggles. But interests are embedded in a context of rights and power relations (see Figure 3) and so interest-based negotiation is appropriate in some but not all contexts. It can be effective when the parties do not seriously contest each other’s power and rights in the situation. However, when parties refuse to give up using power or don’t recognize each other’s legitimate rights, interest-based engagement is less likely to produce desired results until after the disputes over power and rights have been resolved.

*Figure 3: Interests, Rights and Power*



Under the right circumstances interest-based negotiation offers several advantages over positional bargaining and rights-based or power-based engagement: it has lower ‘transaction costs,’ produces greater satisfaction with outcomes and stronger relationships between parties, and so leads to more durable solutions.

It is critical to correctly assess the negotiating context in terms of power relationships, rights issues and the broader situation in order to choose the appropriate negotiating stance. Interest-based negotiation is appropriate when there is agreement on the rights of both, and when there is agreement that the parties mutually influence (i.e., have some power over) one another. In many cases, civil society organizations and business define the situation as requiring a power or rights based approach due to negative prior experience and long held assumptions. When a critical analysis of the situation suggests that an interest-based approach might be appropriate, it’s successful application is predicated on knowing one’s own and the other party’s interests plus skill in using the approach – attributes the parties do not necessarily possess.

Sustaining improved management of differences in situations of critical cooperation also depends on mobilizing and preserving support for the process from stakeholders of the parties who affect or are affected by the issues at stake. Sometimes “constituencies who stand to benefit “..may be uncompromising in negotiations over values and process” (Westley and Vredenburg, 1991:68) and so make it difficult to come to agreement. Sometimes internal stakeholders within the organizations may resist: “...members of the organization may be ambivalent ... and unwilling to commit to the

agreements that have been negotiated” (Westley and Vredenburg, 1991:69). Engagements between civil society and business may be very unstable if key stakeholders, and particularly stakeholders that come into alliance with civil society actors to resolve power struggles and rights debates, cannot accept the results of negotiations (see, for examples, Lawrence and Hardy, 1999). Parties to critical cooperation who do not maintain their alliances with key stakeholders may lose their credibility in struggles over power and rights because they can no longer speak for key constituencies.

## **Fostering Critical Cooperation**

This analysis suggests that critical cooperation across both conflicting and common interests requires attention to at least four elements of the relationship.

- 1) *Balancing power asymmetries*: Critical cooperation in the form of interest-based negotiation is possible when the parties recognize that they can influence each other’s well-being. The parties do not have to be equal in power – but they do have to recognize each other as capable of imposing significant costs or providing valuable benefits. Power balances may arise from prior experience, or from the intervention of third parties concerned with keeping the peace between the parties, or from tests of each other’s capacities and commitments. The effect of balanced power is to make decisions by power struggles very costly, since both parties have the capacity to harm each other
- 2) *Acknowledging critical rights*: When the parties acknowledge each other’s rights to take positions and have stakes in the issue at hand, that acknowledgement can create legal frameworks and normative boundaries that define legitimate behavior as well as formal procedures for resolving disputes. These frameworks may arise from legal systems (e.g., laws against child labor) other shared normative systems (e.g., codes of conduct, community standards) or the terms of jointly accepted contracts or agreements. The existence of mutually accepted rights creates boundaries around negotiations whose violation also can create serious costs on many other fronts.
- 3) *Negotiating both converging and conflicting interests*: Focusing on interests of the parties allows the creation of agreements that maximize mutual gains and minimize joint losses. Critical cooperation, by definition, addresses both conflicting and converging interests, and so seeks to avoid the potentials for escalating into rights or power-based conflict by recognizing and responding to both forms. But these kinds of negotiations make serious demands on relationship-building as well as substantive negotiating skills of the parties
- 4) *Managing relations with key stakeholders*: Each party has to manage the interests of its own key stakeholders, some of whom are likely to be skeptical about the value of critical cooperation with parties who represent interests that are very different. This is often particularly problematic when the possibility of critical cooperation emerges from a history of conflict, so that some of the constituents that have participated in defining a new power balance or new rights have many historical reasons to be suspicious of the “wolf in sheep’s clothing.” Not all veterans of power struggles or rights debates find it plausible that their opponents might want to cooperate now.

We are arguing that recognizing and attending to these four aspects are central to fostering critical cooperation between civil society and business actors. In the next section we describe two cases of civil society-business cooperation as an illustration of some of the potentials and pitfalls of critical cooperation. We will use these cases in a subsequent section to illustrate how the four aspects of critical cooperation interact to shape the outcomes of efforts to foster new initiatives between such different sectors.

## **Civil Society-Business Cooperation in Practice**

The growing literature on civil society-business engagement is especially rich in examples of engagement between environmental NGOs and business. We will use two cases to explore the dimensions of critical cooperation. The first – the cooperation between the Environmental Defense Fund (EDF) and McDonald’s Corporation to address waste management problems—is widely accepted by both civil society and business actors as a successful example of critical cooperation. The second—the product endorsement cooperation between Pollution Probe (PP) and Loblaws (a grocery chain) in Canada—is widely regarded as a less successful engagement.

We will first provide brief descriptions of the two cases. Then we will examine them from the perspective of the four dimensions of critical cooperation discussed earlier.

### **Case 1: EDF-McDonald’s on Solid Waste Management**

In the mid-1980’s McDonald’s, the world’s largest fast food chain, came under attack for its environmental practices. Its ‘clamshell’ packaging became the symbol of poor waste management, although activists were also concerned with other sustainability issues. Because consumers cared about waste, McDonald’s recognized a growing need to solve this problem.

The leaders of McDonald’s and the Environmental Defense Fund (EDF), a national environmental NGO with considerable technical and legal expertise, met on a cable TV program, where it became clear that EDF had technical competence in this area. “The leadership of EDF subscribed to ‘third wave’ environmentalism which recognizes a need for market-based solutions” (Murphy and Coleman 2000: 195). EDF proposed to McDonald’s that they assist the corporation to manage its solid waste problem.

After a year of discussions and negotiations the two organizations formally agreed to form a solid waste management task force. Both parties perceived the cooperation to be risky. Their agreement was explicit about the task forces’ mandate and limits, and the rights of both parties in the agreement. Important elements were:

- β The task force would evaluate McDonald’s materials use and solid waste issues, and develop strategies to reduce the company’s US-based restaurant solid waste;
- β Larger issues such as rainforest destruction, global warming and the high-consumption, highly disposable nature of McDonald’s business were strictly off-limits;
- β Both parties would continue with their ongoing business and advocacy activities;
- β EDF reserved its right to criticize McDonald’s;
- β McDonald’s required EDF task force members to work in one of its restaurants for at least a day each;
- β There would be no acceptance of any monetary or in-kind support at any time;
- β Either party could terminate the project at any time if few or no substantive agreements were forthcoming;
- β If either party disagreed on research findings or conclusions, the final report would consist of separate statement reflecting each party’s perspective.

The company and its suppliers opened their doors to the task force. The greatest tensions arose over the clamshell, which some McDonald’s staff continued to defend.

Within a year and a half the task force produced 42 recommendations. McDonald's implemented 23 of them within two years. A year later, it had implemented all 42, and added 58 other projects. Both organizations monitored implementation of the recommendations. They later collaborated to establish another task force that included several other corporations and a university (Murphy and Bendell 1997: 190-202)

## **Case 2: Pollution Probe– Loblaws on Green Products**

In 1989 Pollution Probe (PP), a Toronto based environmental watchdog group known for its careful analytic and technical work, endorsed a line of 'green' products marketed by Loblaws, a large Canadian grocery chain. At the time, environmentally friendly products were coming onto the market with no standards protecting consumers from fraud – an emerging concern in the Canadian environmental community.

Loblaws' CEO recognized the potential market for environmentally friendly products. Its interest in this initiative was to enhance its brand image in that market. Pollution Probe saw this as an opportunity to educate consumers so they could become involved in environmental issues through their purchasing decisions. It had a organizational interest in demonstrating the efficacy of cooperatively engaging with business for transformative change and a secondary interest in generating funds from the endorsement.

PP initially approached Loblaws to discuss biodegradable plastics and perceived that it impressed Loblaws' leadership with its scientific expertise and reasonableness. After a "getting to know you" period in which the heads of the two organizations discussed the development and selection of products to be endorsed, negotiations for the PP endorsement were held rapidly and in secret (to accommodate Loblaws' marketing interests). They agreed that Pollution Probe would endorse seven products (chosen by Loblaws) and Loblaws would donate to PP a 1 per cent royalty on green product sales and \$1 for each 'green' T-shirt or sweatshirt sold. The estimated revenues were about \$150,000. Pollution Probe tested the fertilizer included in the green product line. It performed no independent analysis on the other products.

For Loblaws the cooperation was a success, for it generated millions of dollars in new sales of 'green' products. For Pollution Probe, however, the endorsement carried high costs. Agreeing to carry out the negotiations in haste and secrecy, PP leadership did not inform or engage staff in the decision. Not surprisingly, many staff objected to the agreement and criticized the endorsement process. Many resigned. The Board called a special meeting to which the Director was not invited. Subsequently he tendered his resignation.

At the same time, Greenpeace—a rival environmental NGO—publicly questioned whether the endorsed fertilizer was in fact environmentally friendly. By taking this public position, Greenpeace assured its members that it was still leading the Canadian environmental movement and not becoming 'soft' on the issues. Greenpeace also had an institutional interest in 'blowing the whistle' because the PP endorsement could enhance the PP image with consumers who might otherwise support Greenpeace. Soon after, the Consumer Association of Canada questioned the truthfulness of the GREEN product advertising. In the aftermath of these events PP drew up policy criteria for future endorsements to guard against co-optation (Westley and Vredenburg 1991; Murphy and Bendell 1997).

## **Comparing the Cases**

The differences in these cases suggest that managing converging and conflicting interests at the same time is not easy. Structuring and implementing critical cooperation requires considerable skill, and both

parties do not always possess that skill. We have suggested that four aspects are central to critical cooperation between civil-society and business: (1) balancing power asymmetries, (2) acknowledging critical rights, (3) negotiating converging and conflicting interests and (4) managing relations with stakeholders. Each of these aspects will be considered briefly below.

### **Balancing power asymmetries:**

When the parties recognize that they each have some mutual influence over each other, they are more able to opt for negotiation as a process for resolving differences. However, parties may not have (or recognize) balanced power at the outset of their relations. When one party has little capacity to influence the other, it is very tempting for the party with more influence to dictate terms and so make the “critical” side of cooperation difficult.

McDonald’s perceived waste management issues to be a business threat since US and British consumers were becoming more concerned about environmental issues and environmental activists in both countries were targeting McDonald’s operations on a wide range of environmental concerns. EDF had a track record of successful protest, demonstrated expertise and public legitimacy that made it a formidable foe. While McDonald’s had vastly more wealth than EDF, the growing public visibility and strength of the environmental movement among McDonald’s customers led to a significant reduction in the initial power differences between the two parties.

Loblaws was under no threat from the environmental movement or consumer pressure when it proposed the endorsement scheme to Pollution Probe. It simply sought PP’s expertise and legitimacy to pursue an innovative marketing venture. PP was perceived to be a technically competent watchdog, but when it chose a collaborative change strategy it largely gave up tactics that challenged business interests publicly. On the contrary, it had evolved an approach that emphasized working with business rather than ‘finger pointing.’ So PP’s resources for influencing Loblaws in any sort of confrontation were meager.

Power asymmetry may be reinforced or reduced through the parties’ interactions with one another. Those interactions often produce explicit agreements on rules, responsibilities and institutional arrangements that will govern their future interaction (e.g., Brown and Ashman, 1996; Hoffman, 1997). At a less obvious but perhaps more influential level, those interactions also shape the parties’ perceptions of each other and the larger domain in which they operate, and the informal norms and social constructs that can expand or contract their views of the playing field and the resources mobilized by different parties. Over time the engagement among different parties can create relationships of trust and recognition of possibilities for significantly expanding (or contracting) future cooperation (Gray, 1989; Austin, 2000). So establishing the terms of the relationship is an important arena in which parties test their ability to influence one another and to establish conditions that meet their interests.

The relatively balanced power relations between EDF and McDonald’s are reflected in a working agreement, which accorded limitations and freedoms to both parties. The more asymmetrical relations between PP and Loblaws is reflected in PP’s agreement to rapid and secret negotiations and to Loblaws’ control over the choice of products to be endorsed. By accepting these conditions, PP contributed to further widen initial power differences. Power in the form of financial independence also figures in the two cases: EDF funded its own participation; PP accepted royalties for its services and endorsement. Due in part to the limits it placed on itself and the ‘rules of the game’ it agreed to, PP had less power on a number of dimensions than EDF in its relations with its business partner. Consequently, PP was less able to have a credible power-based backup strategy if its negotiations went awry.

## **Acknowledging Critical Rights**

Rights-based conflict management strategies depend on the existence of legal or normative standards that the parties can be compelled to observe. When the parties agree on the existence of rights that govern the management of their differences, interest-based negotiations become more feasible. If rights are contested, one or both parties may prefer to appeal to rights enforcement by legal agencies like courts or to the “court of public opinion” to resolve the conflict.

The Waste Management Task Force evolved in the US, where consumer rights advocates and environmentalists had won many court battles. But the questions for the Task Force had not been settled by regulations or legislation that offered obvious rights-based legal leverage to either party. On the other hand, both McDonald’s and EDF recognized that public opinion in the US was increasingly sensitive to environmental issues, and that public norms might soon favor those who invested in innovative initiatives. EDF probably could not win a rights-based resolution in the legal system, but it might well win in the court of public opinion, a court to which consumer-based businesses must be acutely sensitive.

In the product endorsement case, consumer rights and environmental initiatives to establish legal precedents were less visible to either party. ‘Green marketing’ was relatively new and associated rights issues had not yet been well articulated. Indeed, in its failure to assert consumers’ right to transparency on product standards and testing, PP made itself the unwitting (and unwilling) example of a failure to actively assert rights of the constituencies it purported to serve. By not being more forceful on these issues, PP left itself open to criticism from both environmental and consumer groups.

Neither case involved significant use of rights-based strategies to manage differences among the parties, in part because the issues in question did not have well-developed legal and judicial contexts. However, both contributed to developing public conceptions of the issues and to creating public norms that could influence future decisions in the area.

## **Negotiating Converging and Conflicting Interests:**

Interest-based negotiating takes account of multiple interests at play among the parties. In critical cooperation interest-based negotiation will grapple with both converging and conflicting interests to create an agreement that meets many concerns.

In the negotiations between EDF and McDonald’s, we see a carefully crafted set of terms that organized their relationship on converging interests without denying that conflicting interests existed. The agreement created mechanisms that enabled EDF and McDonald’s to pursue their converging interests through the joint task force, and to put conflicting interests ‘on hold’ unless and until conditions substantially changed. By retaining its right to criticize McDonald’s while respecting McDonald’s interest in limiting the scope of the task force, EDF kept its protest option open while agreeing not to use the task force as a tool for broader concerns. The detailed agreement about future decision-making laid out an explicit set of expectations and legally enforceable contractual agreements that protected critical interests of both parties.

The negotiations between PP and Loblaw’s, in contrast, seemed to focus almost exclusively on converging interests and to ignore conflicting interests. The resulting agreement provided few options for PP to safeguard its own interests, implying that PP did not focus on some key interests it had at stake in the situation. The agreement, for example, had no provision for PP to test the products to be endorsed or to publish results of any tests it might carry out. When challenged by Greenpeace, PP could point to no detailed agreement that offered evidence of its continuing independence as a public watchdog. The lack

of a negotiated agreement on mechanisms to recognize, protect or advance its full set of interests led to high costs for PP.

### **Managing Internal and External Stakeholders:**

Situations characterized by high conflicting and high converging interests often provoke ambivalence and disagreement among stakeholders of the parties. They question the decision to cooperate when the history has been one of conflict, or to critically engage when the history has been cooperative. Maintaining legitimacy with one's stakeholders is essential for organizational viability, and so managing stakeholder response to critical cooperation is essential for the continuing relationship.

The EDF-McDonald's case is characterized by careful management of stakeholder interests by both parties. McDonald's came to the table because of concerns about its customers and the general public, but it also carefully worked with stakeholders like its managers and the suppliers of the clamshell packaging at the center of environmental concerns. EDF had a more complex set of stakeholders to manage: staff committed to its environmental mission, members who expected EDF to be a watchdog, and other environmental groups that were skeptical about its cooperation with McDonald's. In response to early criticism from some environmental groups, EDF initiated a consultative process with its environmental colleague organizations to share information and gain their input throughout the course of the project.

PP's endorsement of Loblaw's products, in contrast, was not characterized by concern for, or work with key stakeholders. The PP leadership worked closely with Loblaw's managers, but failed to consult with their own staff or their allies in the environmental movement about the proposed agreement. By committing to an agreement without attempting to generate internal or external support beyond formal endorsement by its Board of Directors, the PP Director violated internal norms for inclusive decision-making as well as external expectations from movement allies. The consequences were disastrous for the cooperation and for the organization.

The cases illustrate the necessity of managing stakeholder expectations and knowledge so that they can support an innovative change strategy. While EDF and PP operational policies included both confrontation and cooperation with business, their leadership differed significantly in the way these new strategic opportunities were handled. EDF initiated the joint task force openly and addressed the skepticism of both internal and external stakeholders. By making a deal with Loblaw's without consultation with staff, PP's Director alienated his organization and increased its vulnerability to external challenge. Earlier consultations might still have produced staff revolt and Greenpeace challenges, but PP would have been better positioned to manage criticisms and negotiate the risks with Loblaw's had it been more transparent at the outset.

Table 1 summarizes the comparisons on these four dimensions between the two opportunities for critical collaboration: EDF-McDonald's, and Pollution Probe-Loblaw's. The two initiatives display quite dramatic differences on all four dimensions: balancing power asymmetries, acknowledging critical rights, negotiating converging and conflicting interests and managing internal and external stakeholders.

*Table 1  
Dimensions of Critical Cooperation*

	Waste Management Task Force: EDF and McDonald's	Green Product Endorsement: PP and Loblaws
Balancing Power	<ul style="list-style-type: none"> <li>• McD concerned about issues of environment and consumer challenges</li> <li>• EDF has competence on waste management, success in legal contestation</li> <li>• EDF employs multiple influence strategies</li> <li>• Public concern with waste management</li> <li>• <u>Result</u>: substantial mutual influence</li> </ul>	<ul style="list-style-type: none"> <li>• Loblaws seeks to reach large new green market</li> <li>• PP has technical competence but little experience with public campaigns and challenges</li> <li>• PP employs a cooperative strategy</li> <li>• "Green product" concept in infancy</li> <li>• <u>Result</u>: PP has little influence over key concerns for Loblaws</li> </ul>
Acknowledging Rights	<ul style="list-style-type: none"> <li>• McD rights in packaging not in dispute, but "court of public opinion" is evolving new standards of waste management</li> <li>• EDF presses environmental rights concepts with long history</li> <li>• <u>Result</u>: McD recognizes validity of EDF and EDF concerns</li> </ul>	<ul style="list-style-type: none"> <li>• Rights in "green markets" not yet well-established</li> <li>• PP does not assert consumer rights to transparency or PP rights to independently evaluate products</li> <li>• <u>Result</u>: Lost opportunity to sensitize Loblaws to rights-based arguments</li> </ul>
Negotiating Interests	<ul style="list-style-type: none"> <li>• Agree to work on range of converging interests</li> <li>• Agree to acknowledge and protect options on conflicting interests</li> <li>• <u>Result</u>: Active and ongoing negotiations; confrontations of differences over several years</li> </ul>	<ul style="list-style-type: none"> <li>• Focus on shared interest in gaining resources from green products</li> <li>• Little attention to potentially conflicts of interests</li> <li>• <u>Result</u>: Reduced interaction after initial agreement; little continuing challenge of each other.</li> </ul>
Managing Stakeholder Relations	<ul style="list-style-type: none"> <li>• McD manages staff to participate in initiative and uses media</li> <li>• EDF works with both staff and its external stakeholders to create support for program</li> <li>• <u>Result</u>: Key stakeholders support continuation of cooperation in spite of potential for conflict</li> </ul>	<ul style="list-style-type: none"> <li>• Loblaws managed internal but not external stakeholders</li> <li>• PP never consulted internal and external stakeholders until after agreement finalized</li> <li>• <u>Result</u>: Challenges to cooperation from Greenpeace and others harms both organizations and the project</li> </ul>

## The Future of Critical Cooperation

Critical cooperation between civil society actors and business offers a form of engagement that can use the strengths of both sectors to produce gains of value to many stakeholders. The interest-based negotiation process at the core of critical cooperation can produce mutually beneficial agreements without requiring that one party subordinate its interests to those of another on one hand or risk the escalation of destructive conflict on the other. Critical cooperation offers opportunities for civil society actors to recruit the capacities and resources of business in the service of social problem-solving, and for business actors to mobilize the commitment and grassroots reach of civil society actors in the mobilization and protection of their business goals.

But there is also considerable evidence to suggest that reaping these benefits requires attention to complicated contexts, issues and processes. Differences in sector histories, values, priorities and power bases make it difficult to establish agreements about mutual power and about basic rights and expectations that are the basis for minimal trust and negotiation of interests. Civil society organizations often distrust the motives of business actors and see themselves as “one-down” in power relationships, and so find it difficult to participate on an equal footing in negotiations. Business actors often are equally distrustful of the motives of civil society actors and question their legitimacy to speak for wider constituencies, and so find it difficult to focus on negotiations rather than recourse to other decision-making processes. There is mounting evidence that successful cooperation among very different actors depends on establishing mutual influence in decision-making (Ashman 2000; Brown and Ashman 1996) There is also growing evidence that many stakeholders increasingly see a convergence in rights and expectations for business and civil society; business leaders increasingly recognize an implicit social responsibility of businesses and the possibility that civil society actors can help business actors meet their obligations as good citizens. (Austin 2000; Bendell 2000; Regelbrugge 1999; Zadek 2001) Similarly, civil society organizations experiencing the costs and limitations of confrontational influence strategies see the potential for harnessing market forces in the service of their social goals. An important challenge for civil society and business actors who seek to create bases for critical cooperation is understanding the power and rights contexts from the perspectives of their potential partners as well as from their own vantage point.

Given an appropriate context for interest-based negotiation, it still requires understanding and skill on both sides to implement effective negotiations. Business actors are often more prepared to negotiate effectively than civil society actors, in part because the challenges of negotiating across mixed interests has been a central issue for business actors for many years. Business schools provide an array of training programs in negotiating that is not yet matched by most civil society programs (to the extent that such programs exist at all). Additionally, the values-based analysis of civil society actors often frames differences in ideological terms that make it too easy to polarize negotiations into crusades and to view coming to agreement by compromise and bargaining as betraying fundamental values. So civil society actors are prone to interpreting differences in ways that throw them back into decision-making based on rights or power, rather than critical cooperation. Working out patterns of interaction around highly-charged issues is particularly critical to success in business-civil society engagement, so building the capacities of both parties to carry out interest-based negotiations will be pivotal to increasing effective critical cooperation.

Civil society and business actors also live in quite different worlds, subject to pressures from very different stakeholders. Civil society organizations often respond to very complex and contradictory stakeholder pressures; by comparison their business counterparts may face relatively simple if intense pressures from the markets they serve. Civil society actors often cope with demands from very diverse stakeholders in social problems, while businesses that meet stockholder standards may have relatively high levels of autonomy to work in their market contexts. Furthermore, business-civil-society partnerships may create more complex sets of external stakeholders than any of the parties recognize at the outset – and so subject parties to new demands and pressures that cannot be easily foreseen. High sensitivity to many stakeholders and to longer-term pressures may be essential to creating and maintaining effective engagements.

We have argued that the possibilities of productive engagement between civil society and business are greatly expanded as we learn more about how to manage not just cooperation or conflict, but cooperation and conflict in the same relationship. Such initiatives can use the complementary resources of business and civil society in the service of the social goals of civil society actors and the business goals of for-profit actors without sacrificing their differences or their autonomy. The framework offered here

proposes an approach for analyzing and taking advantage of increasing opportunities for civil society-business engagement.

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