OTHER FACETS

NEWS AND VIEWS ON THE INTERNATIONAL EFFORT TO END CONFLICT DIAMONDS

Number 11

September 2003

NEW KIMBERLEY MEMBERSHIP LIST ANNOUNCED MEMBERSHIP CRITERIA ENFORCED

Of the 63 would-be participants in the Kimberley Process Certification Scheme for rough diamonds, 24 were dropped from the list at the end of July. July 31 was the deadline for all potential members to submit copies of their diamond-specific legislation and samples of their tamper-proof certificates of origin to the 'Participation Committee' that was created at the April Kimberley Process meeting in Johannesburg. Several countries made no effort to submit legislation, regulations and certificates. When the KP scheme began in January, countries were asked to circulate their sample certificates to all other participating countries. Many countries complained that they had received fewer than a dozen sample certificates and had no way of knowing whether participants were taking the scheme seriously. It was agreed, therefore, to establish the Participation Committee and extend the deadline until the end of July, which would give all interested countries time to submit their documentation for review.

The Participation Committee, which included Canada, the European Union, Israel, Russia, South Africa and representatives of the diamond industry and NGOs, looked for more than the submission of regulations and certificates. If regulations did not include reference to KP minimum standards – such as a country's internal controls and penalties for transgressors – the Committee followed up with a series of questions for clarification.

As of July 31, the list of KP participants included Angola, Armenia, Australia, Belarus, Botswana, Canada, Central African Republic, China, Democratic Republic of the Congo, Republic of Congo, Côte d'Ivoire, Croatia, the European Union, Guinea, Guyana, Hungary, India, Israel, Japan, Republic of Korea, Laos, Lesotho, Mauritius, Namibia, Poland, Russian Federation, Sierra Leone, Slovenia, South Africa, Sri Lanka, Switzerland, Tanzania, Taiwan, Thailand, Ukraine, United Arab Emirates, United States, Venezuela and Zimbabwe.

CENTRAL AFRICAN REPUBLIC REVIEW

A Kimberley Process Review Mission to the Central African Republic (CAR) has concluded that the KP certification system is being implemented satisfactorily in that country. The review mission, which took place in June, was the result of concerns about the country's diamond industry after a military coup in March. The CAR's diamond trade was temporarily halted, and there were calls from NGOs and the World Diamond Council to suspend the country from the Kimberley Process. The Review Mission, which was welcomed by the new government, consisted of team members from the European Union, Guinea, South Africa and the World Diamond Council. NGOs were represented by Alex Yearsley from Global Witness

The report, submitted to the KP Secretariat, commented on the historical problem of imports from the CAR. Imports of diamonds said to be from the CAR have, in recent years, far outstripped the country's production capacity, as well as its own statistics on exports. In 2000, for example, CAR produced 461,200 carats, the report says, while importing countries recorded 1.3 million carats as being from the CAR. According to the report, the main reasons for the differential were fraud and tax evasion. Since April 2003, however, a number of loopholes have been plugged, including the practice of awarding 'presidential concessions' which were outside normal control procedures. The CAR actually has a very good internal tracking system, and field inspections by the Review Mission found that these were working reasonably well. Smuggling will never be halted, the report states, but it points out the importance of statistics. 'It is particularly important to pay very close attention to the consistency of the production statistics of the countries participating in the Kimberley Process, with their recorded exports and their geological production potential,' the report

says. 'Where the available statistics indicate an inconsistency, an on-the-spot investigation should be carried out by experts.'

BREAKTHROUGH ON STATISTICS DELAYS CONTINUE TO HAMPER KIMBERLEY EFFECTIVENESS

The April Kimberley Process meeting in Johannesburg came to grips with the issue of production and trade statistics, more than a year after the issue had been agreed to, and a month after the first period for which statistics were to have been made available. Without reliable and timely statistics, it has been difficult to track the traffic in conflict diamonds. Gross calculations have indicated that there have been massive discrepancies between what some countries produce, and what other countries claim they are importing. This issue arose in the recent KP review mission of the Central African Republic.

The Ottawa KP meeting in March 2002 agreed that quarterly rough diamond trade statistics and semi-annual production statistics would be made available within a month of the end of each reference period. No system for gathering and analysing the data was agreed, however. In April this year, the Government of Canada put forward a simple proposal for gathering the data, and offered to host a website where it could be posted for analysis. The pro forma template for submissions was not available until late July and no data was available for public scrutiny when this issue of *Other Facets* went to press in September. By then, two sets of quarterly trade statistics should have been available, along with the first set of semi-annual production statistics. The continuing delay makes data analysis, essential to the detection of conflict diamonds, impossible. Number 11

Editorial

KIMBERLEY PROCESS: CRUNCH TIME

Almost all of the hurdles to an effective diamond certification system have been cleared. Elements that seemed impossible two or even one year ago, have now been agreed, and the sky has not fallen on the diamond industry or the process itself: agreed minimum standards for the movement and management of rough diamonds, national legislation to support the standards, certificates, the creation of a statistical data base, a WTO waiver, rigorous application of standardized membership criteria.

Most of this, however, means little without a regular, professional and impartial review mechanism. Challenge review missions to deal with problems are one thing. The KP review of the Central African Republic in June showed that this can be done openly, fairly and in a participatory manner that satisfies governmental participants in the KP as well as the industry and civil society. More of these are needed, and soon. The Republic of Congo and Zimbabwe are two examples that require urgent attention if they are to remain in a credible certification system – or rather if the certification system that has admitted them is to remain credible.

But a non-confrontational, regular system is also required for *all* participants. As Nicky Oppenheimer said at the Kimberley Process meeting in April 2003: "I believe that transparent verification of both government and industry procedures is essential to the credibility of the Certification scheme in the eyes of the world. It is for this reason that the industry wholeheartedly supports the NGOs' objectives in securing a credible system of monitoring."

There is be no breach of national sovereignty in a system that seeks to confirm only what governments and the industry have agreed to. There is be no breach of commercial confidentiality in a process that examines systems rather than individuals or companies. And if each review mission cost \$50,000 (much more than the CAR exercise), 60 participants could be reviewed in three years for a cost of \$1 million a year – what the industry spends on diamond advertising in a single day.

Monitoring has never been about finding fault, exposing secrets or hurting the diamond industry. It is about learning and improving the Kimberley system, and keeping conflict diamonds out of the trade now and in the future. Regular monitoring is essential to protecting the industry, and to making the Kimberley system both effective and credible. Without it, the work of the past four years will have been wasted; the industry will remain prey to conflict; and it will remain open to critics who say that no fundamental change has yet taken place.

SIERRA LEONE STRUGGLES FOR CONTROL

In a June address to Parliament, Sierra Leone's President, Ahmad Tejan Kabbah spoke about the country's struggle to reorganize the diamond industry. 'While our efforts at reorganizing the industry have yielded some results,' he said, 'by and large, the age-old problems of smuggling, exploitation, cheating and chaos in the diamond mining areas have not been brought under full control.' The President said that the government is committed to bringing about a well-regulated and transparent diamond mining and trading regime for the benefit of the state and the people of the country, and he said that the government intends to enforce existing diamond legislation. He said that the government would regularly publish the value of diamonds exported, the taxation raised and the disposal of the revenue. He also said that the government intended to invite an 'internationally acclaimed diamond mining company' to work on recommendations that would maximize the country's diamond revenue. Although he did not name the company, many speculated that he was referring to De Beers.

LIBERIA: TAYLOR RESIGNS

In August, after nearly three months of seemingly endless negotiations and a rebel encirclement of Monrovia, during which an estimated one thousand people died in the capital alone, Charles Taylor, the warlord president of Liberia, finally flew off to an uncertain exile in Nigeria. A small force of West African peacekeepers finally landed in Monrovia, putting an end to fighting in the capital, but the rest of the country remained exposed to the predations of rebels and elements of national security forces. An interim government is expected to take office in October.

Taylor was given sanctuary in Nigeria as a condition for his departure Still wanted by the UN-backed Special Court in

Freetown for war crimes and human rights abuse, Taylor was provided with a villa in the port city of Calabar. Planeloads of furniture, vehicles and other personal effects followed the disgraced leader into exile, and UN officials said he also took \$3 million intended for a disarmament and demobilization program. PAC and human rights organizations, including Amnesty International and Human Rights Watch have condemned his escape from justice and have demanded that he be handed over for trial. In a speech during his tawdry resignation ceremony, complete with a hymn-singing choir, Taylor told Liberians, "By the grace of God, I will be back."

WTO GREEN LIGHT FOR KIMBERLEY

The relationship of the World Trade Organization (WTO) to the Kimberley Process was the subject of debate for almost two years during the lead-up to the system's inauguration. Some countries felt that WTO 'permission' was not required for an agreement on rough diamond certification aimed at curtailing conflict diamonds. Article XX of the GATT states clearly that 'Nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures... necessary to protect human, animal or plant life or health ... ' Other participants insisted that a WTO waiver was necessary to avoid challenges, and would confer greater legitimacy on the agreement. In December, Canada, Japan, Sierra Leone and several others sought the waiver, and a preliminary green light was given in February. This required the further agreement of the WTO's General Council, however. The General Council agreed, by consensus, in May. In approving of the KP scheme, the WTO said that 'while there is no reason to believe that a conflict between WTO rules and UN activities would have occurred... the waiver eliminates any such risk beyond doubt.'

OTHER FACETS Page 3

September 2003

TRUTH AND RECONCILIATION COMMISSION

PARTNERSHIP AFRICA CANADA PRESENTATION

Partnership Africa Canada (PAC) was invited in June to testify before Sierra Leone's Truth and Reconciliation Commission (TRC). Speaking on behalf of PAC, Lansana Gberie said that the formal (corporate) and informal (artisanal) sectors of the diamond industry in Sierra Leone had always been in competition with one another, with the corporate side overwhelmingly dominated by foreign capital, and the artisanal side by under-funded indigenous miners, both licit and illicit. Both elements had been subject to illegal exploitation and smuggling, and returns to the state had been extremely small compared to overall production. Taxes had been low and theft common.

'Diamonds in the region have been implicated in terrible wars,' Gberie said, 'and have compounded the corruption and misrule that have had such corrosive effects. The UN Panels of Experts on Angola, Sierra Leone, Liberia and the Democratic Republic of the Congo have demonstrated authoritatively that in the conflicts that ripped these four African states apart, diamonds were an overriding factor.' He added that 'reform of the diamond sector is not simply a matter of convenience, to demonstrate compliance with international agreements. It is an important security, developmental and nation-building consideration. The regulation of diamonds is, therefore, a matter sound economics.'

Recommendations in the PAC submission included the need for security in the diamond areas, the need for an investment climate which encourages outsiders but maximises local benefits, and control of corruption among the country's diamond traders, most of whom are of Lebanese origin. The submission noted the huge discrepancies between known diamond production capacities in Ghana, Guinea and Côte d'Ivoire and what is said to be imported from these countries into Belgium and other countries. 'It is imperative,' Gberie said, 'that credible, independent reviews be undertaken of these countries' ability to comply with Kimberley Process minimum standards, as soon as possible.' He told the TRC that it could provide important assistance by recommending that the Kimberley Process institute a regular system of independent monitoring of *all* national control mechanisms. 'Without this,' he said, 'it will have little meaning in countries where a longcorrupted diamond trade simply ignores borders and regulations.'

UN STRENGTHENS CONGO FORCE

At the end of July, the UN Security Council voted unanimously to keep its peacekeeping force in northeastern areas of the Democratic Republic of Congo for another year. It also agreed to increase the size of the force from 8,700 to 10,800 and to give it a stronger mandate. An arms embargo was also imposed on the diamond-rich eastern parts of the country. Since 1999, more than 50,000 people have been killed in the Ituri region and 500,000 have been displaced. While a few have returned in recent weeks, as many as 150,000 are still living without protection in the forests around the town of Bunia. Médecins san Frontières accused French-led European peacekeepers in July of arriving too late to save the lives of thousands, and of not doing enough to provide real protection. The MSF report is available at www.msf.org/source/countries/africa/drc/2003/unkeptpromises/report.doc

Books

Paul Collier, V.L. Elliott, Havard Hegre, Anke Hoeffler, Marta Reynal-Querol, Nicholas Sambanis, *Breaking the Conflict Trap: Civil War and Development Policy*, World Bank and OUP, Washington, 2003, 221 pages, US\$24.00

Breaking the Conflict Trap spells out the costs of war, not just in lost lives and destruction, but in the loss of development opportunity and investment. Civil war, it says, is 'development in reverse'. The book, a product of the World Bank's Conflict Prevention and Reconstruction Unit, debunks the idea that ancient ethnic hatreds are a serious cause of conflict, and focuses more squarely on poverty and bad governance. Where diamonds are concerned, the book is interesting because of its lengthy discussion of natural resources and the role they can play in igniting and sustaining conflict. The authors have been following the Kimberley Process, which they see as a possible model for resolving conflicts fuelled by other resources.

The diamond industry's image makers have obviously been at work in the World Bank, because the authors of this book incorrectly see the Kimberley Process as 'a private sector initiative'. A depiction of 'intensive action by the Diamonds (sic) High Council ... to reduce rebel access to the market' is followed in the next sentence by a description of the collapse of UNITA and the RUF, as though there was a singular cause and effect. NGOs are virtually absent from the discussion, and the work of the Government of South Africa and others is not mentioned. One must wonder whether this is just poor research or the authors' preferred version of events, one which would square with the World Bank's emphasis on the private sector and growth as the most important (and sometimes only) engine of development. Unsurprisingly, after all the statistics, calculations and regression analyses are laid out, the book concludes that ending poverty would be a good way to curtail civil wars. But as with other Bank recipes, economic growth then becomes the answer, rather than a more nuanced concept of development. Herman Daly, a former World Bank economist once noted that when something grows, it gets bigger; when it develops, it gets different.

Different is certainly what is required, especially in postconflict situations. This is the strongest section of the book. Donors must not disappear once a war has ended, the authors say. They must remain and redouble efforts to develop good governance, to build democratic institutions, to help manage resources well and keep them away from rebels. They have to protect weak economies from price shocks (the Bank and the IMF having done the exact opposite a hundred, if not a thousand times over the past decade alone). They must encourage transparency in natural resource revenues, tighten scrutiny over illicit payments, and help in attracting more reputable resource extraction companies. Where the Kimberley Process is concerned, the book concludes that 'several significant technical and operational issues remain' and that 'a monitoring and evaluation process is needed'. The position of the private sector on this point (silence) is not recorded. *I.S.*

NEW PUBLICATIONS

REPORT SAYS DIAMOND INDUSTRY REGULATION IS INADEQUATE

A report released by Partnership Africa Canada (PAC) in June criticizes the lack of follow-up on a devastating 2002 UN report dealing with diamond exploitation in the Democratic Republic of the Congo (DRC) and says that the UN Security Council must take immediate action to halt all unofficial diamond exports.

The PAC Report, Motherhood, Apple Pie and False Teeth: Corporate Social Responsibility in the Diamond Industry, by Ian Smillie, examines the findings of the UN study, which relied on guidelines developed by the influential Organization of Economic Cooperation and Development (OECD) to criticize companies engaged in what it said was systematic bribery, asset stripping, tax fraud, sanctions busting, embezzlement and extortion in the Congolese diamond industry and other extractive industries. The PAC Report reviews the OECD Guidelines for Multinational Enterprises, finding them to be toothless and virtually unknown to companies involved in such behaviour. It suggests instead, that the Constitution of the Nuremberg Military Tribunal would have been a more appropriate reference, in a conflict that has led to the death of more than three million people in recent years.

The report reviews the concept of corporate social responsibility as it applies to the diamond industry and says that corporate codes which rely on voluntary guidelines are completely inadequate. Much greater transparency in corporate financial transactions is necessary in developing countries, the report says. The report says that the Kimberley Process Certification Scheme for Rough Diamonds is a step in the right direction, but says that it too lacks teeth. Without provision for regular independent monitoring of national control mechanisms, it allows the companies and countries that have traded in blood diamonds for the past decade to continue 'regulating' themselves. Without regular independent monitoring, the report says, the Kimberley agreement "will create false consumer confidence and the appearance of probity where none

Page 4

can be assured. It will do nothing to stop conflict diamonds where they still exist, and it will do nothing to prevent their return where controls are weak and predators are strong." The report is available at www.pacweb.org.

WHAT A GAS **NEW RECIPE FOR DIAMONDS**

In November 2002, under the headline 'A Girlfriend is Forever', Other Facets reported on a company in Chicago that said it had developed a process for turning the cremated remains of human beings into diamonds. Now a team in China claims to be turning 'waste gas' into diamonds. Scientists at the University of Science and Technology of China at Hefei in Anhui province claim to be producing diamonds with diameters as large as 1.2 millimetres. They are made by reacting carbon dioxide with metallic sodium under a pressure of 800 atmospheres in an oven heated to 440 degrees centigrade. This is significantly less heat and much lower pressures than are used to create synthetic diamonds at present. De Beers called for openness and transparency in declaring such a product synthetic and said that it should be labelled as being clearly distinct from natural gem diamonds.

CONFLICT DIAMONDS: CONSUMER AWARENESS GROWING

In January, the British NGO, ActionAid, commissioned a public opinion poll to determine awareness of the conflict diamond issue. The poll, conducted by Taylor Nelson Sofres, interviewed 2,053 British adults throughout the country, and found that 25% of the British public know about conflict diamonds, compared with 9% in May 2000. Now comes an American poll with similar results. Rapaport's Diamonds.net reports that a July poll by the Jewelry Consumer Opinion Council (JCOC) found American consumers to be much more aware of conflict diamonds than in previous years. In October 2000, seven per cent of those polled were aware of the term 'conflict diamonds'. By December 2002 the number had grown to 16%, and in July 2003 the number had risen to 26%

September 2003

- almost exactly the same as in Britain.

'Conflict diamonds are clearly an important and growing issue for the jewelry trade,' said Martin Hurwitz, head of the company that created the JCOC. Quoted in Diamonds.net, he added that 'In just over two and a half years, consumer awareness of conflict diamonds - or "blood diamonds" - has grown 271%... That means one out of four consumers may base their next diamond purchase decision on diamond origins, or ask probing questions about diamond origin certification.'

Paternity Watch Victory has Many Fathers

Count Galeazzo Ciano, Mussolini's Foreign Minister until he (and Mussolini) came to an abrupt end, once said that victory finds a hundred fathers but defeat is an orphan. John F. Kennedy also used the line after the Bay of Pigs debacle in 1961. The apparent success of the Kimberley Process is now bringing all sorts of daddies out of the woodwork. The World Bank says that the Kimberley Process is 'a private sector initiative' (see book review on page 3) and gives high marks to the Diamond High Council. At the May JCK Show in Las Vegas, WDC Chairman, Eli Izhakoff said that the diamond industry should be proud of its efforts to fight conflict diamonds. 'Three years ago,' he said, 'we were faced with the toughest challenge our industry has ever had, and we came through with flying colours... we deserve a lot of credit for ... making this system happen.' And a 12-page advertising supplement on diamonds in the Globe and Mail's July 2003 Report on Business says that the Kimberley Process is a 'Canadian-led international certification system'. 'Way to go Canada!' the article concludes. Other Facets has instituted a new service, the Kimberlev Process Paternity Watch, and welcomes submissions from readers who spot other claims of

OTHER FACETS

Other Facets, a periodic newsletter about the international effort to end diamond-related conflict, is a publication of the Diamonds and Human Security Project of Partnership Africa Canada (Ottawa). Views expressed in Other Facets are those of the authors and editorial staff alone.

Supporters include: the Program on Global Security and Sustainability of the John D. and Catherine T. MacArthur Foundation, the Canadian International Development Agency, the British Department for International Development, the Canadian Catholic Organization for Development and Peace, the International Development Research Centre, the Canadian Department for Foreign Affairs and International Trade, the Canadian Autoworkers Social Justice Fund, World Vision Canada and others.

For more information: Partnership Africa Canada, 323 Chapel St., Ottawa, Ontario, K1N 7Z2, Canada; info@pacweb.org ISSN: 1496-7480

parenthood.