

OTHER FACETS

NEWS AND VIEWS ON THE INTERNATIONAL EFFORT TO END CONFLICT DIAMONDS

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GAO Condemns Weak Kimberley Provisions

'Significant Challenges Remain'

The US General Accounting Office reported in February that the Kimberley process proposals for rough diamond certification was full of 'shortcomings' that provide 'significant challenges in creating an effective scheme to deter trade in conflict diamonds'.

The report by the GAO, which is the investigative arm of the US Congress, issued a detailed analysis of the proposed Kimberley Process rough diamond control scheme, and found it seriously deficient. 'For example,' the report said, 'the scheme is not based on a risk assessment... Some activities that would be deemed high-risk by industry experts as well as Kimberley participants, such as the flow of diamonds from the mine or field to the first export, are subject only to "recommended" elements.'

The report condemned the diamond industry's lack of transparency which, it said, facilitates illicit trade. The lack of consistent trade statistics was given as one example: while Belgium reported selling \$355 million worth of rough diamonds to the US in 2000, the US reported buying only \$192 million. Similar discrepancies were cited in connection with the Democratic Republic of Congo, the Central African Republic and the United Arab Emirates.

'Kimberley participants have been unable to agree on the form of administrative support' the system will require, the report stated, and it was critical of the voluntary nature of participation, as well as the absence from the process of certain key countries. The report reserved its harshest criticism for the proposed monitoring arrangements. 'A monitoring mechanism consists of continuous monitoring and evaluation to assess the quality of performance over time in achieving the objectives and ensuring that the findings of audits and other reviews are promptly resolved.' The report said that the proposed system as it stands, 'lacks details and relies heavily on voluntary participation and self assessments.' Weaknesses include the absence of guidelines for reviews, for self-assessments, or for monitoring a proposed industry chain of warranties. 'The scheme does not discuss a mechanism for ensuring that the findings of the review missions are promptly resolved.'

The GAO report is one of the strongest critiques of the Kimberley Process progress to date. It was not intended to damage the Kimberley Process, however. The GAO concluded by saying that it hoped its analysis would be 'useful in enhancing the scheme's ability to deter the conflict diamond trade.' The full report can be found at <http://www.gao.gov/new.items/d02425t.pdf>.

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REPORT ON 'PROSPERITY DIAMONDS'

Are diamond industry claims about 'prosperity diamonds' well founded? To what extent do diamonds contribute to development in South Africa, Namibia and Botswana? The answer is important, because concern about possible economic damage to these countries has caused NGOs campaigning against conflict diamonds to be less aggressive where consumers are concerned, than might otherwise have been the case.

The Diamonds and Human Security Project published a new report in March, written by Ralph Hazleton: *Diamonds: Forever or for Good? The Economic Impact of Diamonds in Southern Africa*. The report discusses the good that diamonds do, and concludes that while it is significant, it is not without controversy, nor is it unambiguous. Botswana, the report says, refutes the argument that a high dependence on a single commodity almost automatically leads to conflict. The variable in this case is not diamonds but the country's good governance.

Although infrastructure and some services are better than elsewhere on the continent, however, poverty levels in Botswana, Namibia and South Africa are as high as, or higher than, many other African countries without diamonds. In Botswana, 60 per cent of the population lives on less than \$2 a day, despite the highest GNP per capita in Africa, and decade-long growth rates that exceed those of the Asian 'tiger economies'. The report also finds that while Botswana may be free of 'conflict diamonds', the same cannot be said for South Africa and Namibia.

The report is available at www.partnershipafricacanada.org

Meetings

The lead-up to the Ottawa March 2002 meeting of the Kimberley Process occasioned a number of meetings to discuss progress and problems. In January, South African Ambassador to the US, **Sheila Sisulu**, hosted a Washington meeting of diplomats, US negotiators, industry representatives and NGOs concerned about where the process was leading. The meeting heard from Minister **Alfred Dube** of Botswana, **Eli Ishakoff**, Chairman of the World Diamond Council, **Alan Eastham**, Head of the US Kimberley Delegation, and **Ian Smillie** of Partnership Africa Canada. While there was agreement that some measures had been achieved, several NGOs at the meeting spoke about the potentially fatal weaknesses in the plan as proposed.

Conflict diamonds were the subject of a panel discussion at the large Orlando JCK jewelry show, February 3. **Jeff Fischer**, President of the US Diamond Manufacturers and Importers Association noted that there had been no demonstrations or angry NGO press releases since the middle of 2001. He warned, however, that NGOs might lash out at the industry in 'sheer frustration' if US diamond legislation continued to falter in the Senate (see related articles in this issue on faltering US legislation and angry NGO press releases).

In February, one of the four Kimberley Process working groups met in Geneva to discuss outstanding issues around WTO compatibility. A paper circulated in advance by Kimberley Process Chairman, **Abbey Chikane**, reviewed security exceptions in the GATT, and discussed precedents for the imposition of import bans in other situations. The paper concluded that import and/or export bans on rough diamonds would not be in conflict with WTO provisions if a credible motivation for them was put forward.

In March, the Netherlands Institute for Southern Africa (NIZA), Fatal Transactions and Oxfam International held an expert meeting at the European Parliament in Brussels to discuss outstanding issues relating to the proposed Kimberley system. 'The EU, being the largest importer of rough diamonds, has a clear and specific interest in an effective, trustworthy control system,' organizers said. The meeting was chaired by **Max van den Berg**, former director of the Dutch NGO, NOVIB, and currently a member of the European Parliament.

Also in March, the **World Diamond Council** held a meeting in Milan to discuss Kimberley Process progress. The meeting heard from NGO participants that the system as it currently stands will not be effective, and that it requires serious strengthening in several areas if it is to achieve even the most minimal of its objectives.

'Peace' in Sierra Leone

In January, the war in Sierra Leone was declared officially over. The disarmament process ended as well, and the country began preparing for elections, to be held on May 14. UNAMSIL has deployed to most parts of the country, as have the Sierra Leone army and police. On March 2, the longstanding state of emergency was lifted. There remains considerable unfinished business, however. On March 4, Foday Sankoh and 49 other RUF rebels were charged with murder and conspiracy to murder. An additional 33 members of the West Side Boys gang were also charged. The UN-sponsored Special Court, which will indict and try war criminals, has yet to begin operations. The RUF, which plans to contest the elections, is still mining diamonds in Kono District. And in Liberia, renewed fighting has led to the displacement of tens of thousands of people.

Hall and Wolf Blast US Inaction

US Congressmen Tony Hall and Frank Wolf, in testimony on conflict diamonds to the United States Senate on Feb 13, criticized poor government coordination and the mishandling of competing pressures. They noted the government position on De Beers, subject of an anti-trust case for more than 50 years and a more recent criminal indictment for anti-competitive practices. This, they said, is inconsistent with diplomatic work on conflict diamonds which actively engages De Beers as a leader in the diamond industry. 'If De Beers uses its influence to assist efforts to solve this problem,' the Congressmen said, 'it may well deserve our appreciation. If instead it exerts its power to prolong jawboning - either to burnish its image or to exact concessions from the Justice Department, or to increase its market share - that would rightly earn it more opprobrium.'

Hall and Wolf also said that narco-traffickers consumed most of the attention of the Treasury Department before Sept. 11, and that terrorists have been the focus since then. This, and worries within the U.S. Trade Representative's office that the Kimberley Process might restrict the legitimate diamond trade had acted as a brake on effective government action. 'Whatever your views on how extensively to regulate trade,' they said, 'it is critical to remember that the trade in conflict diamonds deserves no protection.'

They said that conflict diamonds are only 'the latest chapter of African resources being stripped away in the most irresponsible manner to satisfy Western markets.' Even if the diamond industry, NGOs and the media remained focused on ending the scourge, they said, 'there is no substitute for the attention that our government can muster.'

UN Debate on Conflict Diamonds

In December 2000, the UN General Assembly mandated the Kimberley Process to continue its work in developing a 'simple and workable international certification scheme for rough diamonds' that would 'break the link between conflict diamonds and armed conflict'. It called for the widest possible participation and for 'arrangements to help ensure compliance'. In February 2002, a draft UNGA resolution was circulated as a consequence of the work that has been done by the Kimberley Process to date. The draft resolution welcomed the work that had been done. It also encouraged participants to 'resolve outstanding issues including verification measures, administrative considerations and the nature of a possible international instrument covering the certification scheme.' It also underlined 'the need, as an essential tool for the successful implementation of the... scheme, for collation and dissemination of statistical data on the production of, and international trade in, rough diamonds.' These issues were expected to be addressed at the March 18-20 meeting of the Kimberley Process in Ottawa.

Fire in the Ice

New Report Investigates Benefits, Protection and Regulation in the Canadian Diamond Industry

Canada is a newcomer to the world of diamonds, but it is already one of the largest producers of top quality gemstones. Its mines in the Northwest Territories are remote and its diamonds are clean. Or are they? Can local communities benefit from the discovery of diamonds beneath their feet? Can they negotiate successfully with giant international mining firms? Can any diamond-producing country remain aloof from the taint of 'conflict diamonds'? These questions are addressed in a new report issued by the Diamonds and Human Security Project, *Fire in The Ice; Benefits, Protection and Regulation in the Canadian Diamond Industry*. Written by Ian Smillie, the report describes elements of the Canadian diamond experience which might be of use in other countries, and it examines Canada's readiness for the Kimberley Process diamond certification system.

The paper concludes that the impact of diamonds on the economy of the Northwest Territories has been dramatic and largely positive. And if the 'Kimberley Process' international diamond certification system were to be agreed for implementation tomorrow, Canada would pass with good marks on mining and export controls. But Canada falls down on the *import* side. There is a problem in reconciling detailed diamond trade data with other countries. There are virtually no controls on, or knowledge of, diamonds that are not mined in Canada. There is no diamond-specific legislation, and no way of verifying what a 'Canadian diamond' is. There is, the report says, a proliferation of industry certificates which prove nothing, but which benefit from the 'clean' Canadian reputation. The report concludes that carelessness in these areas creates potential for criminal activity and damage for Canada's fledgling cutting and polishing industry.

The report is available at www.partnershipafricacanada.org.

Australian Diamond Industry Under Threat

A January report issued by the Australian Institute of Criminology finds that Australia's diamond risk exposure is high and that 'it is likely that increased targeting of [the] industry by organised criminals will occur.' The report says that Australia, which produced A\$768 million worth of diamonds in 2000, is also under threat from conflict diamonds because of its reputation for 'sound provenance' and its proximity to south-east and north Asian manufacturing bases. The report condemns the 'lack of transparency in the commercial trade, and weaknesses in the auditable trail of diamond movements from the mine to consumer' and argues that Australia could take 'a more proactive role' in encouraging and supporting the international response 'to what is an international criminal problem.' The report can be found at www.aic.gov.au.

US Legislation Falters

In November 2001, the much-debated Clean Diamond Trade Bill passed virtually unopposed through the US House of Representatives. Aimed at halting the flow of uncertified diamonds, the bill was expected to pass in the Senate without difficulty. This did not happen. Some senators argued that the bill had been weakened by the Bush Administration, and that a stronger bill was required. Whether and when such a bill will be forthcoming from the Senate is not yet known.

Media Watch

National Geographic's cover story for its March edition is 'Diamonds: The Real Story'. Bumped for three months by articles about Islam and Afghanistan, Andrew Cockburn's piece describes 'a labyrinth linking multimillion-dollar mines, bloody wars and timeless beauty.' It illustrates the conflict diamond issue with photos from Sierra Leone, and has a sad picture from Namibia: 'Shifting sands recently laid bare a field of human bones near Kolmanskop, another abandoned Namibian mining town built on the backs of imported workers who lived and died in anonymity.'

There have been many movies about diamond robberies. The latest, **All About the Benjamins**, was released on March 8 in the US by New Line Cinema. The film, starring rapper **Ice Cube**, has a conflict diamond tie-in. Rated R, it also contains 'strong violence, pervasive language and brief sexuality'. 'Benjamins' are American \$100 bills; there is no explanation of what 'pervasive language' might be.

A *Diamonds and Human Security Project* study of Canadian diamonds was widely reported in January. In a lead editorial, **The Globe and Mail** said that Canada should need little convincing to move forward with diamond legislation. 'The question is how soon, and with how much urgency. Canadian consumers and Canada's diamond producers deserve protection. As critical, the people of some of the world's most war-torn nations deserve Canada's support.'

Campaigns

NGOs around the world worked together on a 'Kimberley Process Report Card' that was released to the media for Valentine's Day, February 14. The report card was intended to demonstrate NGO concern with weaknesses in the proposed diamond certification scheme. Created by seven of the NGOs most actively involved in the Kimberley Process, the report card was promoted by more than 100 other NGOs around the world. The story was carried by Reuters, Agence France Presse, VOA, the BBC, Agence Belga, the Italian Press and specialized diamond publications. Stories were carried in newspapers as diverse as the Turkish *Daily News* and the *Zimbabwe Daily News*. The Vatican made a statement in support of the NGO position.

See next page for a copy of the Report Card.

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CONFLICT DIAMONDS KIMBERLEY PROCESS REPORT CARD É VALENTINE'S DAY, 2002

Governments, the diamond industry and NGOs have been meeting since May 2000 to create a certification system that will end the trade in conflict diamonds. Here is a Report Card on what they have accomplished.

Subject	Grade	Comments
Controls in Producing Countries	Good	Comprehensive details have been agreed; the major challenge will be monitoring and enforcement (see below) Some countries have already taken action: Botswana has reviewed its legislation and regulatory framework for Kimberley Process (KP) compliance; Namibia's new Diamond Act aims for KP compliance.
Controls in Trading & Consumer Countries	Fair	Details agreed but some countries still reluctant to implement new procedures, with complaints about the complexity and projected cost. However, the cost would undoubtedly be much less than 1% of the \$7 billion annual trade. The EU will manage controls on behalf of, and in, all its members states. This could lead to either a dismantling of existing controls in some countries (e.g. Belgium), or their extension to all others - it must be the latter. Adequate EU controls must be installed throughout the EU. Most EU member have few or no diamond controls of any sort at present.
Certificate of Origin	Good	Concept and format well developed and agreed by all producing countries. Working examples now exist in Angola, Sierra Leone and Guinea, with help from Belgium, Diamond High Council, US & UK.
Re-Export Certificate	Fair	Principle now accepted that trading countries (e.g. Israel, Belgium, US, UK) must 'guarantee', to the best of their ability, that diamonds in their systems are conflict-free. Some countries are balking at cost and complexity; there are differences of opinion as to what a government can actually guarantee.
Industry Chain of Warrant-ties	Good	The World Diamond Council (WDC) has proposed an industry-managed 'chain of warranties' in each producing and trading country. This may be audited by governments as required. Details have yet to be worked out, but the principle is essential to ensure good control at all levels of the chain. Any industry-sponsored mechanism <i>must</i> be regulated and monitored by governments; voluntary approaches are unsatisfactory.
WTO Issues	Fail	US, Canada and others want the diamond certification system to comply with WTO regulations and not viewed as a restriction of trade. They want free entry to the system; others want entry criteria. There are solutions to this, but KP members have left this issue and negotiations with the WTO to the 11 th hour, and they remain as divided and confused on the subject as they were on Valentine's Day 2001.
Statistics	Fail	There is general agreement that good and comparable statistics on rough diamond production and trade are essential to halting the trade in conflict diamonds. However, 4 plenary meetings and several working groups have so far failed to find a formula.
Coordina-tion	Fail	While all recognize the need for a secretariat function, many (especially Russia and the US) refuse to come to grips with the details, and coordination issues have not been discussed in 12 KP meetings. The KP needs backup on data gathering and analysis, the organization of reviews, and problem identification. It also needs a dispute mechanism, and deterrents for countries failing to meet minimum standards. Worries about the cost and authority of a secretariat have prevented any meaningful discussion.
Monitoring	Fail	Credible independent monitoring of national systems and industry warranties is essential to an effective system. Current monitoring provisions are tentative, timid, voluntary, limited, optional. Credible independent monitoring of national systems and industry warranties is essential to an effective system. Weak monitoring will actually <i>assist</i> traffickers in conflict diamonds by covering their trail with bogus paperwork. Russia, China, Israel and others actively support the current weak provisions. Not one government spoke in favour of more effective monitoring at the November 2001 KP meeting. Weak monitoring? Only the killers will win.
Overall Grade: An 'A' for good intentions and hard work. An 'F' - Failure - for not creating what the UN General Assembly called for in December 2000: a system that is effective, pragmatic and transparent, with 'appropriate measures to help ensure compliance'. The system as it currently exists will be neither effective nor transparent. It is a watchdog without teeth. And it may actually make it easier to disguise conflict diamonds than before.		