

# OTHER FACETS

NEWS AND VIEWS ON THE INTERNATIONAL EFFORT TO END CONFLICT DIAMONDS

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## CONFUSION GREETES KP STARTUP

### DELAYS, ANGER AND RECRIMINATIONS

At the meeting of the Kimberley Process that was held at Interlaken in November 2002, over 50 governments and the European Union stated their readiness to implement the Kimberley Process certification scheme with effect from January 1, 2003. On the appointed day, only a handful of countries, including India, Canada, Switzerland and some countries in Africa, were actually ready to begin implementation. The European Union was delayed until February 13, in part because its certificates had not arrived from the printers, and some Antwerp diamonds were held up in Indian customs because they had been shipped without a certificate. Switzerland also refused to allow diamonds into the country without a certificate. Because there is no agreement on a common certificate, each of the 50-odd countries has to print and circulate its own design to all the other participants. As of mid-January, only a few had done so, giving customs authorities around the world no samples to compare against actual shipments. And because participating countries vigorously opposed the creation of a secretariat for the scheme, the capacity of the Chair to deal with these and other issues is severely constrained.

Nevertheless, Kimberley Process Chairman Abbey Chikane stated early in January that there would be no delay in startup. He did acknowledge, however, that there would be understandable problems during the first month of implementation. It was understood that January would be a trial run, with full implementation on February 1. At the end of January, however, the Chairman stated that further 'interim measures' would be required until a meeting of the Kimberley Process could be held in Johannesburg at the end of April. These measures, which were not described, are designed, he said, 'to accommodate the unique national procedures of colleagues in passing legislation and fulfilling other administrative requirements' of the scheme. This was shorthand for the fact that some of the countries which had stated their readiness at the Interlaken meeting were not ready at all.

#### US Backtracking

One of the major problem countries is the United States, whose delegate to the Interlaken meeting had pressed for a firm startup date on January 1. Back in Washington, however, confusion reigned. The Bush administration had originally intended to meet its KP obligations by issuing an Executive Order, but it was subsequently decided that legislation would be required. Legislation on conflict diamonds had been introduced into the House of Representatives on several occasions during 2001 and 2002, and one bill actually passed by an overwhelming majority in November 2002. It was subsequently killed in the Senate because it was said to have had too many loopholes. New legislation is now being drafted, but it is unclear when this will be passed.

Meanwhile, authority for the issuance of US certificates was handed over to the private sector, and a squabble erupted between the Jewelers of America and the Diamond Manufacturers and Importers of America as to which of them should have the right to issue export certificates. A compromise was reached in January, and a jointly run U.S. Kimberley Process Authority was created as the sole issuing body for rough diamond export certificates from the United States. How this body and these certificates will be audited or authenticated by the United States government remained to be seen, given the absence of enabling legislation. Of greater concern is a statement on the certificate: "The issuer of this certificate accepts no responsibility relating to the accuracy of the data recorded by the exporter." This seems to state that the certificate actually certifies nothing.

#### WTO Compliance

The delays in U.S. compliance are said to have created further problems in the European Union, which was apparently unwilling to enforce its own regulations if its biggest diamond trading partner was not ready. An additional factor delaying the start-up related to a debate about the scheme's relationship to WTO regulations. Several governments, including Switzerland and the European Commission, had argued through 2002 that WTO human security safeguards would protect the Kimberley Process from challenges. Other countries, led primarily by Canada, argued that the KP was an implicit restriction on trade, and that a WTO waiver should be sought. Canada, Japan and others therefore submitted a request for a waiver to the WTO in December. At the end of February, the WTO agreed that participants in the Kimberley Process will be allowed to reject rough diamonds from areas of conflict. The waiver has yet to be approved by the WTO's General Council. (*cont'd page 4*)

## EDITORIAL

The startup difficulties of the Kimberley Process certification scheme are more than teething pains. They reflect a serious degree of ambivalence and apathy among a number of participating countries. Why was a small country like Botswana ready and able to meet the agreed KP terms and conditions on January 1, while larger countries like the United States and Russia were not? Perhaps the reason is that diamonds, and a well-run diamond industry, are more important to Botswana than they are to Russia and the United States. Perhaps, being closer to the issue of conflict diamonds and to the wars in Angola and the DRC, Botswana knows what havoc an unregulated diamond trade can wreak. Or perhaps Botswana just takes its agreements more seriously. Perhaps, conversely, countries like the United States, and the many others that were not ready on January 1 or even February 1, simply don't take other people's wars and other people's fights against terrorism seriously. But even if all the countries that agreed so fervently to a January startup had been ready, there would still have been problems. Did any of those who insisted on issuing their own KP certificates realize what a bureaucratic nightmare would result as fifty or sixty customs departments tried to obtain samples of fifty or sixty different certificates? The Kimberley Process secretariat could, of course, coordinate this, but several governments refused to support the idea of a secretariat, so there is none. South Africa, which has valiantly led the Kimberley Process from the beginning, has been inundated with queries and demands, simply because it offered to chair the process, a process without a budget and without a coordinating centre. At the November KP meeting, governments could not agree on what to do about the WTO, so some - notably Canada and Japan - went ahead and took unilateral action in asking for a WTO waiver, which has added to the confusion. China and Taiwan both joined the WTO in 2002, but they were unable to join the Kimberley Process together, another issue that remains outstanding. The matter of statistics, agreed a year ago and now under the 'management' of the EC, has not moved forward one inch since an indecisive meeting in South Africa last October. And then there is the issue of monitoring. As feared, a wide range of countries have now sent in post cards saying they are willing and able to join the Kimberley Process. Among them is the much named, but not, apparently, much shamed, Burkina Faso. And now North Korea! Unless these issues are sorted out very quickly - credible monitoring; a system for gathering and disseminating statistics; the passing of enabling legislation in laggard countries - all those who have worked so hard in good faith to make the Kimberley Process an effective curb against conflict diamonds are going to look more than a little foolish. The diamond industry, and the people who continue to suffer from its lack of regulation, will be the victims of Kimberley Process intransigence, petty politics and incompetence.

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### Security Council Up-date:

#### 'KP: Resolve Outstanding Issues'

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The UN Security Council has taken a number of important decisions over the past three months regarding conflict diamonds. In December, it extended for six months the ban on all Sierra Leone rough diamonds except those controlled by the government under the existing Certificate of Origin regime. At the same time it terminated all sanctions pertaining to Angola and dissolved the Angolan Sanctions Committee, preparatory to Angola taking a seat on the Security Council. In January, the Security Council re-established the Panel of Experts on Liberia, requesting it to take follow-up missions to Liberia and neighbouring states over a three month period. Liberian diamond sanctions and other measures remain in place until May 2003. And the panel dealing with the illegal exploiting of resources in the Democratic Republic of the Congo was also extended.

At the end of January, the Security Council passed a unanimous resolution expressing its 'strong support' for the Kimberley Process Certification Scheme. The resolution noted with deep concern the linkage between the illicit trade in rough diamonds and the fueling of armed conflicts that affect international peace and security. The resolution stated that the widest possible participation in the scheme is essential and it strongly encouraged participants to resolve outstanding issues.

### World Diamond Council Releases Kimberley Guide

In February, the World Diamond Council issued a document entitled 'The Essential Guide to Implementing the Kimberley Process' for members of the World Federation of Diamond Bourses (WFDB) and the International Diamond Manufacturer's Association (IDMA). The guide describes the Kimberley process agreement and spells out long-awaited details of the industry's proposed chain of warranties. The system, based on industry self-regulation, will be an important feature in administering the KP in some countries. The guide says that all buyers and sellers of both rough and polished diamonds must state on all their invoices that the diamonds in each parcel have been purchased from legitimate sources not involved in funding conflict, and that they are in compliance with UN resolutions. The statement must also declare that 'the seller hereby guarantees that these diamonds are conflict free, based on personal knowledge and/or written guarantees provided by the supplier of these diamonds.' In addition, the guide states that each company trading in rough and polished diamonds will have to keep records of warranty invoices received and issued, and that the flow must be audited and reconciled on an annual basis by the company's auditor. The invoices may also be audited by an authorized government agency to determine compliance with the Kimberley Process. The rules are compulsory for all members of the World Diamond Council, including members of WFDB and IDMA, but the WDC hopes they will gain currency elsewhere.

## Diamond Peace Alliance Inaugurated in Sierra Leone

An inaugural meeting of the Diamond Peace Alliance was held in Koidu, Sierra Leone on December 18 and 19, 2002. For almost a decade, Koidu – in Sierra Leone's diamond rich Kono District – was the epicentre of one of Africa's most brutal wars. Although the town, one of Sierra Leone's largest, was almost completely destroyed, signs of reconstruction and business can be found everywhere. The objective of the Peace Alliance, which has been developed over the past two years by USAID in consultation with NGOs and the private sector, is 'to help ensure that the Sierra Leone diamond industry contributes positively to peace and prosperity through increasing benefits to the people of Kono from the diamond industry and by helping the government improve its ability to manage diamonds.'

The meeting debated many hurdles: the need for better government management, improved legislation, better working conditions for miners, greater community involvement and an active civil society which can support improved state and community diamond management. Strategies, a code of conduct, monitoring and a workplan are expected to emerge in the coming weeks. Representatives of government, Sierra Leonean and international NGOs and the diamond industry attended the meeting.

## New Publications: Diamonds & Human Security Project

### Indian Diamonds: 'Complacency and Suspicion'

*No Problems Here; Success, Complacency and Suspicion in the Indian Diamond Industry*, a report by seasoned Indian journalist Vinod Kuriyan, examines the possibility that India may have become a conduit for conflict diamonds imported from war zones in Africa. Nine out of every ten diamonds are cut and polished in India. Diamonds are India's single largest export, and the industry employs more than 600,000 people. India, the report says, has a major stake in understanding the conflict diamond problem and in helping to solve it. The report finds no direct evidence of conflict diamonds in India, but the author encountered a combination of complacency and suspicion in his travels: complacency about the ostensible absence of conflict diamonds; concern about the 'real' purpose of the Kimberley Process; and worry about alleged efforts by outsiders to impose international inspectors on the Indian industry. The report says that the vast majority of the Indian industry has little awareness of the seriousness of the conflict diamond issue and its humanitarian price, and finds that the Indian diamond industry – like others – has no reason for complacency.

### Conflict Diamonds in Central African Republic

*Diamonds in the Central African Republic: Trading, Valuing and Laundering*, by Christian Dietrich, reveals a strong likelihood that conflict diamonds from the Democratic Republic of the Congo and elsewhere are being laundered through Bangui, the capital of Central African Republic (CAR). The report shows that significantly more diamonds are leaving the country than are produced there and that significantly more diamonds are entering Belgium as 'CAR diamonds' than are mined in that country. While the CAR has a reasonably good system for tracing locally mined diamonds back to the places where they originate, the tracking is not being done. This makes the country an attractive channel for diamond smugglers from other countries. The report concludes that while it is important for the CAR to be a full member of the Kimberley Process, efforts must be made to halt the use of its name and its territory in the trafficking of contraband diamonds. This must be accompanied by a credible, independent review to ensure compliance, without which the country's diamonds will remain suspect. The diamond trade in CAR exposes a flaw in the Kimberley Process – the lack of regular, independent monitoring of national systems.

The reports are available at: [www.partnershipafricacanada.org](http://www.partnershipafricacanada.org)

## BOOKS

Chaim Even-Zohar, *From Mine to Mistress; Corporate Strategies and Government Policies in the International Diamond Industry*, Edenbridge, Kent, Mining Journal Books, 2002, 555 pages, £295, €30, US\$495.

Chaim Even-Zohar has been involved in the diamond business for three decades, as a buyer working on behalf of the government of Israel, as a diamond banker, as a consultant and in recent years as a preeminent diamond journalist, commentator and publisher. He has traveled the diamond world and knows its history, its players and its economics. Despite its title, this book is not something you would take to bed with you at night: if you dropped off to sleep and it fell on you, you might never wake up. This is a big, expensive book, and it is not one you might read from cover to cover. Rather it is an encyclopedia of the diamond industry. For history buffs there is a historical section, with additional background in the individual chapters on each of the major producing and trading countries. The book's central feature, however, is the economics of the diamond industry. It explains the industry framework and the evolution of De Beers' marketing and pricing strategies. It analyzes profits, taxation and subsidy policies, the role of diamond bourses and the economics of establishing cutting centres in places as far apart as Windhoek and Yellowknife. But there are some aspects of the industry that baffle even the author. In one lengthy chapter he analyzes the US diamond industry and discovers that a large percentage of the polished diamonds imported into the country are actually re-exported – \$2.4 billion worth in the first seven months of 2001 alone. Even more puzzling, 70% of these diamonds go to cutting centres (Israel, Belgium and India), not to consuming countries. This is 'like selling tulips to the Dutch,' the author says, 'kind of weird'. Indeed. In a chapter on conflict diamonds, Even-Zohar says that an Internet search engine will turn up 44,300 hits in seven seconds. 'The very notion that these two words can somehow be linked raises potentially devastating connotations,' he says, 'and the industry quickly coined the antonymous phrase, "diamonds for development" to emphasize that the product provides tangible benefits for society.' The book's historical perspective and the immediacy of its economic and political analysis are both its strength and its weakness. The relevance of its currently up-to-date diamond economics will fade and will in time date the book. But the historical narrative and analysis will undoubtedly make this book an important reference work on the diamond industry for many years to come.

– I.S.

## Confusion Greets KP Start-up *(cont'd from page 1)*

The WTO statement cited “the extraordinary humanitarian nature of this issue and the devastating impact of conflicts fueled by the trade in diamonds the peace, safety and security of people in affecting countries” as the reason for its decision.

### NGO Concerns

Many NGOs backed the Kimberley Process and participated in its meetings over the past two and a half years. They are now becoming increasingly concerned about the apparent lack of political commitment in several important diamond producing and trading countries. Some believe that the principle of ending the scourge of conflict diamonds is becoming lost in detail and in petty political squabbling. ‘Perhaps we should simply suspend all trade in rough diamonds until these issues are sorted out,’ said Ian Smillie, Research Coordinator for Partnership Africa Canada. ‘Or perhaps we should suggest that consumers suspend diamond purchases until governments can come to a workable agreement.’ NGOs are also concerned that after a year of meetings on diamond statistics, there has been no progress beyond general statements of principle. ‘Without the statistics that governments agreed in March 2002 were necessary, the scheme will be seriously compromised,’ said Smillie. ‘The delays are becoming intolerable.’

### OTHER FACETS

*Other Facets*, a periodic newsletter about the international effort to end diamond-related conflict, is a joint publication of Partnership Africa Canada (Ottawa), the International Peace Information Service (Antwerp) and the Network Movement for Justice and Development (Freetown). Views expressed in *Other Facets* are those of the authors and editorial staff alone.

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## Campaigns

The British NGO, **ActionAid** commissioned a public opinion poll in January to determine public awareness of the conflict diamond issue. The poll, conducted by **Taylor Nelson Sofres**, interviewed 2,053 British adults throughout the country. It found that 25 per cent of the public know about conflict diamonds, compared with nine per cent in May 2000. Seventy per cent said they would not want to buy diamond jewelry without conflict-free guarantees. The poll was taken in advance of an ActionAid campaign, asking British jewelers to put pressure on their suppliers to ensure that the buying public gets jewelry that is guaranteed conflict-free.

In Canada, an NGO called **One Sky**, in collaboration with **Amnesty International** and **Partnership Africa Canada**, launched a campaign called ‘Canadian Jewelers for Conflict-Free Diamonds’. The campaign asks jewelers to send a letter to the World Diamond Council stating their support for regular independent monitoring in the KP. It asks participating jewelers to ensure that their customers understand that without regular independent monitoring, the Kimberley Process cannot guarantee that diamonds are conflict-free. Campaign materials are available at: [www.onesky.ca](http://www.onesky.ca).

In the United States, **World Vision**, **Amnesty International** and **Catholic Relief Services** launched a Valentine's Day ‘Week of Action’, aimed at sending ‘powerful messages to the diamond industry and Congress about the need for strong, effective legislation to guide the international diamond trade.’ The campaign highlighted the fact that the United States has not yet passed KP legislation. It also called for action on three weaknesses in the Kimberley Process: a more comprehensive definition of conflict diamonds, regular independent monitoring of the KP itself, and effective implementation and monitoring of the diamond industry’s chain of warranties.

## Mediawatch

In December, the *Washington Post* published a follow-up to its earlier articles on **Al Qaeda's** diamond connections. Citing new evidence and a military intelligence summary, the article’s author, **Douglas Farah**, says that an Al Qaeda diamond-buying spree in Sierra Leone and Liberia began in September 1998, six weeks after the bombing of US embassies in Kenya and Tanzania, when the US moved to freeze all Al Qaeda assets. The story accuses Liberian President, **Charles Taylor**, of receiving US\$1m for harbouring Al Qaeda operatives, who were in the region for at least two months after Sept. 11, 2001. The report adds that senior European intelligence sources ‘have been baffled by the lack of US interest’ in the story.

The latest **James Bond** film, *Die Another Day*, has a sub plot with extensive reference to conflict diamonds. In one scene, a secret agent examines a polished diamond and says it has ‘exactly the same chemical composition as Sierra Leone conflict diamonds’, a technology that would interest law enforcement agencies worldwide, if it existed. The most disappointing revelation about James Bond occurs early in the film when he tells a villain that he is ‘a brave man to be trading in African conflict diamonds while the UN embargo is in place.’ **Ian Fleming** must be spinning in his grave.

On February 11, the American **PBS** network ran a **National Geographic Special**, entitled *Diamonds of War*. The film begins at the Ottawa KP Meeting, and tracks the issue back to Sierra Leone. The film’s narrator, **Dominic Cunningham-Reid**, goes first to the alluvial diamond fields of Kono District. He interviews illicit diggers and licensed miners. He takes a hidden camera into an illegal Lebanese diamond-buying operation in Kenema and into a meeting with *maraka* diamond smugglers. Those familiar with the conflict diamond issue will recognize PAC’s **Ian Smillie**, **Alex Yearsley** from Global Witness, and the HRD’s **Peter Meuss**, who told the camera yet again that this is an African problem, not a diamond industry problem. Cunningham-Reid seems to think that the KP won’t work, in part because the nature of diamonds makes them difficult to monitor, partly because corruption is so endemic. Despite its pessimistic conclusions, this is one of the most comprehensive pieces of TV journalism on conflict diamonds yet.