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**Dirty Diamonds**  
Armed Conflict and the Trade  
in Rough Diamonds

Economies of Conflict: Private Sector Activity in Armed Conflict

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## Preface

Diamonds don't kill people. Yet, the record indicates that diamonds have helped sustain armed conflicts that, in Africa, have killed almost one million people in just over a decade. In Angola, the UNITA rebels – led by Jonas Savimbi until his death in a shoot-out with government troops in February 2002 – controlled at various times as much as seventy per cent of the country's diamond production. In Sierra Leone, diamonds have helped finance the RUF rebels, sustaining a civil war that has lasted for a decade, reducing Sierra Leone to the rank of “least developed nation” in the UN index, with a population whose average life expectancy is 25.9 years. In the Democratic Republic of Congo – rich in diamonds, other minerals and timber – the International Rescue Committee estimates that over 2.3 million people have died since 1998 from the effects of the war on food security and health; another 330,000 people are estimated to have been killed in the war itself. In the process, the legitimacy of an otherwise legal and profitable industry has been challenged as never before.

The recent rise to prominence of ‘conflict diamonds’ poses a challenge not just to the diamond industry, but also to governments, multilateral institutions and non-governmental organisations working to manage or resolve wars and to promote economic and social development. This report looks at this recent experience, explores how the trade in rough diamonds helps sustain armed conflict and assesses the various solutions now being debated.

This study was commissioned by Fafo's Programme for International Co-operation and Conflict Resolution (PICCR) as part of a research project entitled *Economies of Conflict*. The project examines the links between certain private sector activity and armed conflict, asking the question, How does certain private sector activity help sustain armed conflict and what can be done about it?

The objective of *Economies of Conflict* is to contribute to policy and practice in the private, public and NGO sectors. As with past PICCR projects, we have chosen an inductive approach, seeking to contribute to these arenas through an analysis of experience and lessons-learned. To this end, we have commissioned studies from practitioners and researchers with a keen sense of what has worked – and what has not worked – in practice. This has been made possible by the financial support provided to *Economies of Conflict* by the Government of Norway, for which they deserve many thanks. Thanks also to officials of Norway's foreign ministry who have

shown particular leadership on this issue. Of course, the views and recommendations expressed in this report are those of the author alone and do not necessarily reflect the views of Norway, its Government or officials, or Fafo.

Finally, a word of thanks to Ian Smillie, the author of this report. Ian's perspectives as a researcher and practitioner deeply involved in efforts to control the conflict diamond problem have resulted in a thorough and illuminating study of the issue. The industry – in cooperation with governments and NGOs – has made progress in recent years, but this progress has yet to result in measures that will effectively sever the links between diamonds and armed conflict.

Mark B. Taylor  
Programme Director, PICCR  
Series Editor – Economies of Conflict

# Executive Summary

This study examines the origins of conflict diamonds, suggesting definitions and surveying ways that the diamond trade is linked to armed conflict. The paper looks at how aspects of the trade in rough diamonds help sustain armed conflict and describes attempts to come to grips with the problem by the diamond industry, NGOs, and governments. The effort to develop an international certification system for rough diamonds, known as the ‘Kimberley Process’, is dealt with in detail. By way of conclusion, the paper reflects on analytical considerations related to understanding the links between conflict diamonds and armed conflict, asks if conflict diamonds are ‘easier’ to deal with than other commodities, and offers some recommendations for future action.

## Conflict Diamonds

The term ‘conflict diamonds’ is shorthand to describe a phenomenon researched and brought to international attention by two NGOs, Global Witness and Partnership Africa Canada, and a UN Security Council Expert Panel dealing with Angola in 1999 and 2000. The UN General Assembly has subsequently defined conflict diamonds as “rough diamonds which are used by rebel movements to finance their military activities, including attempts to undermine or overthrow legitimate governments.” An inter-governmental series of meetings, known as ‘the Kimberley Process’, settled on something more legalistic and less comprehensive:

Conflict Diamonds means rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments, as described in relevant United Nations Security Council (UNSC) resolutions insofar as they remain in effect, or in other similar UNSC resolutions which may be adopted in the future, and as understood and recognised in United Nations General Assembly (UNGA) Resolution 55/56, or in other similar UNGA resolutions which may be adopted in future.

Diamonds have an obvious attraction for combatants and the suppliers of their weapons. Diamonds are a low-volume, high-value commodity. They are highly portable, they keep their value, and all too often, they are readily accessible. Customs departments in most countries have no capacity to examine diamonds to

determine origins. There is very little government oversight on the international trade, and there is a paucity of consistent, reliable trade and production data that might be used for tracking purposes. Even the legitimate diamond industry has been shrouded in secrecy for generations.

Half the world's production or more is mined in countries with unstable or secretive governments, an almost foolproof recipe for expanded and deepened criminality. The value of rough diamond production was approximately US\$7.5 billion in 2000. This was converted into \$57.6 billion in diamond jewellery sales, of which the diamond content was approximately \$13.7 billion. At least 20 per cent of the rough diamonds that are sold each year are, in one way or another, 'illicit', providing a ready-made cover for the 'conflict diamonds' that are the subject of current international interest.

## **Efforts to Curb the Problem**

The effort to halt conflict diamonds began in 1998, with a UN Security Council resolution on Angola. UN Security Council embargoes have been proven an effective means of alerting importing countries to the problem of conflict diamonds: the current ban on Liberian diamonds has effectively stopped the laundering conflict and illicit diamonds via Liberia. It has not, however, stopped the flow of conflict diamonds from Sierra Leone. Sanctions on Angola have also not stopped the flow of diamonds.

The diamond industry, NGOs, politicians, individual governments and the United Nations have become engaged in a large and concerted effort to deal with the issue. For diamond producing countries, many of them developing countries, the resource is crucial for economic development.

For the diamond industry the challenge has been twofold. First, it has a moral obligation to make sure that its product is not tainted. Second, there has been a public relations problem, fanned by a growing number of churches and NGOs, which have threatened the reputation of the industry and its product. Diamond bourses around the world began developing codes of conduct in 2000. However, while several companies have been named in UN Security Council Reports, little has been done, in part because the absence of laws in importing countries outlawing illicit or conflict diamonds means that any industry measures against *diamantaires* could be actionable in a court of law.

The Kimberly Process, which sought to reach agreement on how to deal with conflict diamonds, faced two major obstacles. One was the potential cost and complexity of putting an effective system in place. The second had to do with statistics



and international inspection. For some countries, diamonds are a “strategic mineral” and as such could not be the subject of international inspection. For NGO participants, however, self-regulation was a non-starter. An additional issue related to worries that a global regulation system might clash with WTO undertakings. At a 12<sup>th</sup> and final meeting of the Kimberley Process in March 2002 (or at least the final meeting of a first phase) most of the problems were resolved. Agreement was reached on the provision of production and trade statistics. The WTO debate was resolved by agreeing to do nothing. The participation of all major producing and trading countries, along with the Permanent Five members of the Security Council was deemed to make the proposed system relatively safe from effective challenge. A co-ordination mechanism was agreed, and the World Diamond Council proposed an auditable ‘chain of warranties’ for the movement of rough diamonds between one dealer and another.

Despite a vigorous debate on the subject of monitoring, however, the final outcome remained weak. NGOs argued for regular, independent, expert monitoring of all national control mechanisms. What emerged, however, was a provision for review missions that would be largely voluntary, to be triggered only when there are ‘credible indications of significant non-compliance’ with the system. Even then, the terms of reference would be established by the Chair of the Kimberley system with the consent of the participant concerned and in consultation with all participating countries.

## **Conclusions, Lessons and Recommendations**

The study focuses on the connection between one primary export commodity and conflict. Diamonds did not cause the wars in Angola, Sierra Leone or the DRC. Diamonds entered the story, in all three cases, after the conflicts had begun. Grievance, however well or badly justified, was the motivator, and power was the goal. But diamonds became important as a source of financing which helped sustain the wars, and as a contributing factor to the intensity and scope of the fighting.

There are no internationally agreed mechanisms to monitor the movement of this highly portable, accessible and valuable commodity. That is what the Kimberley Process has sought to develop.

The Kimberley Process was initiated on the premise that only a comprehensive international certification system could be expected to have any serious impact on the phenomenon. Such a system would include better control in diamond mining countries, clarity in procedures for shipping diamonds, and controls in trading and processing countries. These controls would have to be backed by an international database on trade and production. An effective international certification system

would also help to end the other illicit uses to which diamonds are put, including money laundering.

The Kimberly Process produced a remarkable agreement in a very short space of time. To be effective, however, attempts to sever the link between rough diamonds and armed conflict will require the following:

- a strong, independent mechanism for monitoring the national compliance of all participating countries on a regular basis for compliance with agreed minimum standards. Consumer confidence cannot be based on trust or on haphazard, minimal-review mechanisms. Credible monitoring for compliance should be viewed as compulsory and desirable by any country wanting to demonstrate that its industry is conflict free;
- The issue of WTO compatibility should be settled, and it should be settled soon. Neither the WTO, nor the GATT, condone or permit theft, war, human rights violations and the other abuses that stem from conflict diamonds.

The experience of attempting to regulate conflict diamonds *via* the Kimberly Process suggests a number of key lessons for those working to regulate commodities which fuel armed conflict.

On the supply side, the key element is the accessibility of diamonds – a function of security failures, corruption, and state collapse. UN embargoes, new national legislation and industry efforts to stop conflict diamonds have had little impact, except to change the routing and covers under which conflict and illicit diamonds travel. On the demand side, industry secrecy, an absence of reliable trade and commercial data, and lack of governmental oversight are important factors in generating and nourishing the opportunity that has sustained armed conflict. The fact that 20 per cent of the diamond industry is essentially crooked means that channels for the disposal of conflict diamonds had been established by illicit diamonds prior to the conflicts. Armed conflict and criminality converged, creating a more ready opportunity for the emergence of conflict diamonds than might be the case in other commodities. *Effective regulation must address the supply and demand sides of the problem in tandem, addressing both the accessibility of rough diamonds and lack of transparency and accountability that enable them to be marketed.*

The strength of the Kimberly Process was that it was inclusive. NGOs and senior industry executives attended all meetings, and were encouraged to participate as fully as government representatives. There was no North-South divide: there were as many governments from developing countries as there were from the North. And there was a champion for the issue: the Government of South Africa. Shortcomings in the Kimberly Process may become more obvious with time and distance. As this paper was being completed in April 2002, the outcome of the process remained

unclear. Participating governments had undertaken to change their legislation and regulatory frameworks to allow for a global launch of the Kimberley system in November, 2002. The vexed issue of monitoring, however - championed only by NGOs - remained outstanding. 'Only by NGOs' is, however, somewhat misleading. NGOs brought the issue of conflict diamonds to public attention in the first place, without which there would have been no Kimberley Process. And the NGOs were unlikely to allow the matter to rest so near, and yet so short of an effective conclusion



# 1 Introduction

By now we are all familiar with the day when the world changed and unspeakable acts of terror took the lives of more than 5,000 civilians. I am referring, of course, to January 6, 1999, when rebel gunmen killed, maimed and raped their way across Freetown, Sierra Leone's capital.<sup>1</sup>

Diamonds have fuelled three of Africa's most brutal wars. A 2001 United Nations report on the "Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo" concluded that the conflict in the DRC "has become mainly about access, control and trade of five key mineral resources: coltan, diamonds, copper, cobalt and gold." The exploitation of natural resources by foreign armies, the report said, "has become systematic and systemic. Plundering, looting and racketeering and the constitution of criminal cartels are becoming commonplace in occupied territories. These criminal cartels have ramifications and connections worldwide."<sup>2</sup>

Following failed elections in 1992, Angola's renewed civil war was largely financed by oil and diamonds, costing the lives of more than 500,000 people. UNITA, the Angolan rebel movement, has consistently controlled large areas of the country's diamond production, generating \$3.7 billion between 1992 and 1999. In Sierra Leone, diamonds became both a motivator, and the resource that paid for a brutal civil war that began in 1991. As many as 75,000 people were killed in the decade that followed, most of them civilians. The RUF hallmark was brutal amputation: hundreds and perhaps thousands of innocents, many of them small children, had their hands and feet chopped off. Such are the effects of conflict diamonds.

This paper is about the origins of conflict diamonds and the efforts to put an end to the phenomenon. The following chapter sets the stage, suggesting definitions, and surveying some of the history of the diamond trade and its links to armed conflict. The third chapter describes elements of the international diamond trade that make conflict diamonds possible and is followed by a chapter that looks specifically at the problem of illicit diamonds. Chapter five describes the role of NGOs, the

<sup>1</sup> David Keen, *The Guardian*, 7 November 2001

<sup>2</sup> UN Security Council, S/2001/357, April 2001

diamond industry, governments and the United Nations in attempting to come to grips with the problem, describing in some detail the workings of the inter-governmental 'Kimberley Process' that was established in 2000 to create an international certification system for rough diamonds. Finally, by way of conclusion, chapter six reflects on analytical considerations related to understanding the links between conflict diamonds and civil war, asks if conflict diamonds are 'special' or 'easier' to deal with than other commodities that demand international attention, and offers some recommendations for future action.

## 2 Conflict Diamonds

The terms ‘conflict diamonds’, ‘blood diamonds’ and ‘war diamonds’ began to appear in the middle of 2000, shorthand to describe a phenomenon researched and brought to international attention by two NGOs, Global Witness and Partnership Africa Canada, and a UN Security Council Expert Panel dealing with Angola. Interestingly, the reports resulting from the three investigations never used any of these terms. The expressions were media creations, convenient and descriptive shorthand for a complex subject.

The formal definition of conflict diamonds has varied since the term was coined. In December 2000, the UN General Assembly defined conflict diamonds as “rough diamonds which are used by rebel movements to finance their military activities, including attempts to undermine or overthrow legitimate governments.”<sup>3</sup> An inter-governmental series of meetings, known as ‘the Kimberley Process’, debated the definition at length, settling on something more legalistic and less comprehensive:

Conflict Diamonds means rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments, as described in relevant United Nations Security Council (UNSC) resolutions insofar as they remain in effect, or in other similar UNSC resolutions which may be adopted in the future, and as understood and recognised in United Nations General Assembly (UNGA) Resolution 55/56, or in other similar UNGA resolutions which may be adopted in future.<sup>4</sup>

Conflict diamonds are usually associated with three current wars: the civil war in Angola, the complex of cross-cutting warfare in the Democratic Republic of Congo (DRC), and the RUF ‘rebel war’ in Sierra Leone. The conflict diamonds of today, however, have their antecedents in other conflicts. Diamonds, for example, were used during the 1970s and 1980s to fund the Amal faction in the Lebanese civil war. Nabih Berri, head of Amal and now Speaker in the Lebanese Parliament, was born in Sierra Leone and had close ties to key figures in the Lebanese-dominated Sierra Leone diamond trade. He made visits to Sierra Leone during this period to

<sup>3</sup> Document 1/2002, March 2002

<sup>4</sup> Kimberley Process Working Document 10/2001, December 2001

raise funds for his campaign in Lebanon, and further diamond-generated funds were raised later in Sierra Leone for Lebanese reconstruction.<sup>5</sup>

Earlier, diamonds played a role in fuelling the Angolan liberation movement. In the first instance, they served to raise African awareness and resentment of Portuguese colonial rule. As late as 1954, Diamang, the Luanda-based diamond company – owned by Portuguese, Belgian, British and American interests – was resisting calls to raise the wages of its 17,500 workers from \$2.45 a month. The proposed wage increase would have represented ten per cent of the company's dividend payments that year.<sup>6</sup> The liberation war began seven years after this dispute, and as it heated up, diamonds fuelled Portugal's efforts to fight back.

More recently, where liberation movements have gained access to diamonds, diamonds fuelled the fight for independence as well, and – through UNITA – the civil war that continues to plague the country today. In June of 1998, the UN Security Council placed an international embargo on trade in Angolan diamonds not accompanied by a government certificate of origin. Although an important step in recognition of the role played by diamonds in the conflict, the issue sparked little public interest, and the embargo created little more than a ripple in the diamond industry.

The Angolan diamond problem was spelled out more clearly in December 1998 by a small British NGO, Global Witness. Global Witness produced a lengthy paper called *A Rough Trade: The Role of Companies and Governments in the Angolan Conflict*. It argued that the renewed civil war in Angola, following failed elections in 1992, was largely financed by oil and diamonds, costing the lives of more than half a million people. Global Witness reported that UNITA controlled up to 70 per cent of the country's diamond production, generating \$3.7 billion in less than seven years. It argued that the industry had simply ignored the problem, buying diamonds from any source that offered them. De Beers Chairman, Nicky Oppenheimer, had spoken, for example, in the company's 1996 Annual Report – at a time when UNITA controlled most of the diamond areas – of “the increasing outflow of Angolan diamonds to the major cutting centres, much of which De Beers was able to purchase through its outside buying offices.” The report also showed how the UN embargo was being systematically sidestepped by the industry and by an almost complete lack of compliance on the part of countries as widely diverse as Belgium and Zambia. Following the Global Witness report, the Security Council Sanctions Committee on Angola, chaired by Canadian Ambassador Robert Fowler, appointed

<sup>5</sup> Fithen, Caspar, “Diamonds and War in Sierra Leone: Cultural Strategies for Commercial Adaptation to Endemic Low Intensity Conflict,” Unpublished PhD Dissertation, University of London, 1999.

<sup>6</sup> Smillie, I., Gberie, L., and Hazleton, R., *The Heart of the Matter: Sierra Leone, Diamonds and Human Security*, Partnership Africa Canada, Ottawa, 2000



an independent panel of experts to look into the issue of sanctions busting more carefully.

Further north from Angola, a seemingly insignificant cross-border raid from Liberia into Sierra Leone in 1991 signalled the start of another brutal war. The Revolutionary United Front (RUF), supported by Liberian warlord Charles Taylor, spoke vaguely of democracy and justice, but its attacks were all aimed at non-combatants. The RUF signature – chopped hands, feet, breasts – was applied only to civilians, many of them women and children. By 1995, the RUF had gained control of Sierra Leone's diamond fields, and although not acknowledged internationally, it was obvious to casual observers in the region that the RUF was trading diamonds for weapons, the latter supplied by their Liberian mentor, Charles Taylor. After the deaths of 75,000 people, with half the country's population displaced, and Charles Taylor now the President of Liberia, Sierra Leone had reached rock bottom. By 1999, the government that was democratically elected in 1996 was restricted mainly to the Freetown peninsula.

In January 2000, a Canadian NGO, Partnership Africa Canada (PAC), issued an 88 page report on Sierra Leone diamonds entitled *The Heart of the Matter: Sierra Leone, Diamonds and Human Security*.<sup>7</sup> It challenged a commonly held view that Sierra Leone's war, like others in Africa, was a crisis of modernity, caused by the failed patrimonial systems of successive post-colonial governments. It also disputed Robert Kaplan's thesis that Sierra Leone was a prominent exemplar of "the coming anarchy" and "new age primitivism" – a mindless breakdown of law and order and state control.<sup>8</sup> *The Heart of the Matter* argued that while there was certainly no doubt about widespread Sierra Leonean disenchantment with the failing state, with corruption and with a lack of opportunity, similar problems elsewhere had not led to years of brutality by forces devoid of ideology, political support and ethnic identity. Only the *economic* opportunity presented by a breakdown in law and order could have sustained violence at the levels that plagued Sierra Leone after 1991. The report argued that,

Traditional economics, political science and military history are of little assistance in explaining Sierra Leone's conflict. The point of the war may not actually have been to win it, but to engage in profitable crime under the cover of warfare. Diamonds, in fact, have fuelled Sierra Leone's conflict, destabilizing the country for the better part of three decades... Over the years, the informal diamond mining sector, long dominated by what might be called 'disorganized

<sup>7</sup> *Ibid.*

<sup>8</sup> Kaplan, Robert D., "The Coming Anarchy", *The Atlantic Monthly*, February 1994.

crime', became increasingly influenced by *organized* crime and by the transcontinental smuggling not just of diamonds, but of guns and drugs, and by vast sums of money in search of a laundry. Violence became central to the advancement of those with vested interests. As the mutation of the war in Sierra Leone continued and spread through the 1990s, so did the number and type of predators, each seeking to gain from one side of the conflict or another.<sup>9</sup>

Although they denied it vociferously, among those complicit were De Beers, the entire Belgian diamond industry and a coterie of Canadian junior mining firms that were doing most of the formal mining in Sierra Leone.<sup>10</sup> De Beers, officially out of Sierra Leone for years, continued to mop up "loose" diamonds wherever they appeared until as late as 1999, in order to retain control of the market. Belgium simply ignored the fact that imports into the diamond trading capital of the world, Antwerp, bore no relation to the production capacities of the countries they were said to come from. In 1998, as shown in Table 3 for example, Sierra Leone's diamond industry was almost completely under rebel control. There were virtually no official exports, and yet Belgium recorded 770,000 carats as originating in Sierra Leone. Much, much worse was the case of Liberia, also discussed above – a country with the capacity to produce maybe 100,000 carats at most in a year. Between 1994 and 1999, almost 37 million carats, worth US\$2.2 billion, were recorded in Belgium as Liberian.

The "Fowler Report" on Angola, issued in March 2000, broke new ground in 'naming and shaming' sitting heads of state. The report named the Presidents of Togo and Burkina Faso as key players in illicit diamond and arms trafficking, and it drew further attention to the complicity of the international diamond trade in buying and selling conflict diamonds without compunction.<sup>11</sup> A second UN Expert Panel dealt with Sierra Leone, reporting in December 2000. It confirmed that millions of dollars worth of diamonds were being exported by the RUF every year, mostly through Liberia, and with active Liberian government involvement

The United Nations Security Council Panel of Experts on the "Illegal Exploitation of Natural Resources and Other Forms of Wealth in the DRC" issued its first substantive report in April 2001. It concluded that the conflict in the DRC was mainly about access, control and trade of five key mineral resources: coltan, diamonds, copper, cobalt and gold. The report said that "the role of the private sector

<sup>9</sup> *Ibid.*

<sup>10</sup> Smillie, I., Gberie, L., Hazleton, R., *The Heart of the Matter: Sierra Leone, Diamonds and Human Security*, Partnership Africa Canada, Ottawa, 2001

<sup>11</sup> UN Security Council, S/2000/203, March 2000

in the exploitation of natural resources and the continuation of war has been vital.”<sup>12</sup>  
This Expert Panel was the third to examine the issue of conflict diamonds in the months following the Global Witness and PAC revelations.

<sup>12</sup> UN Security Council, S/2001/357, April 2001



## **3 The International Diamond Trade and Armed Conflict**

Diamonds have an obvious attraction for rebel movements and their suppliers. They are a low-volume, high-value commodity. They are highly portable, and all too often, they are readily accessible. The legitimate diamond industry has been shrouded in secrecy for generations, there is very little government oversight on the international trade, and there is a paucity of consistent, reliable trade and production data that might be used for tracking purposes. At least 20 per cent of the rough diamonds that are sold each year are, in one way or another, 'illicit', providing a ready-made cover for the 'conflict diamonds' that are the subject of current international interest. Add to this the fact that half the world's production or more is mined in countries with unstable or secretive governments, and there is an almost foolproof recipe for expanded and deepened criminality.

### **3.1 The Myth of Scarcity**

Despite their value and mystique, diamonds are not rare. Reference to diamonds can be found in the Bible, in Pliny and in other early sources. The world's first known diamonds were mined in India, finding their way to ancient Rome, the Far East and later to renaissance Europe. Before 1850, as many as 30 million carats may have been produced in India. The world's second source of diamonds was Brazil, although its industry peaked in the eighteenth century and the country is now regarded as a minor producer. The modern diamond era begins with the South African diamond rush of the 1860s. In the ten years after the first South African discoveries, diamond production increased by a factor of ten, and since 1880 it has multiplied by a factor of 40. An estimated 500 tons of diamonds have been mined so far, one third of them in the 1990s.

South African diamonds have remained a force to contend with, but diamonds were subsequently discovered in the German Protectorate of Southwest Africa, now Namibia, in 1908, and at about the same time in the Belgian Congo, now the Democratic Republic of Congo (DRC). Diamonds were found in Angola in 1912

and in the 1930s there were important finds in West Africa. Minor deposits were discovered in Guinea, Liberia and Côte d'Ivoire, but the best quality gem diamonds were found in Kono District of Sierra Leone. Diamonds had been found in Russia in the nineteenth century, but it was not until the 1950s that the major Yakutia diamond deposits were uncovered, half of them north of the Arctic Circle. Australia has in recent years become a major producer of industrial diamonds, and there are smaller production sites in China, Venezuela, Tanzania and elsewhere. Canadian finds in 1991 – 300 kilometres northeast of Yellowknife – took the industry by surprise, and they promise to be important. By 1999, Canada, in production only a year, had already reached a par with Namibia, at almost six per cent of world production by value, and estimates suggest that it will represent a very respectable 15 per cent of the world's supply within a few years.

The growing supply of diamonds has not affected the price. De Beers and others have advertised aggressively, and have created new markets, most significantly in Japan. The control of supply has been part of industry tactics, but equally important have been the maintenance of demand and the creation of new markets. De Beers has not yet retailed a single diamond, but its \$200 million annual advertising campaign makes it a household name in many countries.

### **3.2 Value and Price: De Beers**

The value of rough diamond production was approximately US\$7.5 billion in 2000. This was converted into \$57.6 billion in diamond jewellery sales, of which the diamond content was approximately \$13.7 billion (see Table 1, below).

Rough diamonds range dramatically in value, from a few cents a carat, to thousands of dollars. At the lowest end of the scale are 'boart' and industrial diamonds, while at the higher end are large, clear gem diamonds that can be worth hundreds of thousands of dollars per carat. A 79 carat pink diamond found in Brazil in 1999 was estimated at something between US\$6 million and \$20 million. Depending on grade and colour, other 'pinks' have sold recently for anything between \$16,000 and \$730,000 a carat.<sup>13</sup> A flawless round premium cut diamond weighing 1.78 carats was selling for \$8,600 per carat in November 2001. The same diamond eight notches down the scale (I1 grade) was selling for \$3,800 per carat. Many gem diamonds are very small, but modern polishing techniques have made it possible to commercialize diamonds that once would have been used only for industrial purposes – as small as one one-hundredth of a carat, or even less.

<sup>13</sup> Hart, Matthew, *Diamond: A Journey to the Heart of an Obsession*, Viking, Toronto, 2001, p. 14

In 1880, Cecil Rhodes formed the De Beers Diamond Mining Company Ltd. Forty years later, in the 1920s, the diamond industry was in a perilous state: there were too many diamonds and too few buyers. Sir Ernest Oppenheimer, appointed Chairman of the Board of De Beers in 1929, reorganized the industry, essentially by offering to buy all the diamonds throughout the world, in order to support a stable price. The Oppenheimer family has maintained its relationship with De Beers ever since. Harry Oppenheimer, who succeeded his father, was in turn succeeded as Chairman by his son, Nicky in 1994.

For 80 years De Beers has had a symbiotic relationship with Anglo American, a major player in the mining and natural resource sector. Anglo American plc was formed in 1917 by Ernest Oppenheimer in order to gain access to capital markets in the United States. For many years, cross directorships and shareholdings meant that De Beers and Anglo American essentially controlled one another.<sup>14</sup> In 1998, however, Anglo American re-structured, and was operationally separated from De Beers. The purpose of the separation, according to De Beers, was to “assemble all the diamond skills and expertise which have long been De Beers’ special strength in one independent, dedicated and integrated company, led by a highly focussed management team, free to devote its full attention to its core role – the discovery, mining and marketing of diamonds.”<sup>15</sup> That did not last long, however. In 2001, the Oppenheimer family and Anglo American bought out De Beers shareholders, turning the company into a private firm run by the Oppenheimer family.

De Beers mines or partners in mining the majority of the world’s diamonds. Although there have been major recent changes in the way it does business, its major role, and a role in which it has been extremely successful, is to maintain stable prices by manipulating both the supply and the demand for rough diamonds on world markets. This is done primarily through its London-Based Diamond Trading Company (DTC).<sup>16</sup>

The DTC sells diamonds at 10 annual ‘sights’ (sales) to approximately 125 ‘sightholders’. Sightholders are designated by De Beers and are presented with mixed ‘parcels’ of diamonds. The parcels may include stones from a combination of countries. Parcels are priced by De Beers and are bought by sightholders. Sightholders then take the diamonds to other cities where they are resorted and repackaged for onward sale, or for cutting and polishing.

<sup>14</sup> The De Beers story has been told many times. A good history can be found in Kanfer, Stefan, *The Last Empire: De Beers, Diamonds and the World*, Farrar Straus Giroux, New York, 1993

<sup>15</sup> De Beers, *A Diamond is Forever-1998 Annual Report*, p. 5.

<sup>16</sup> Until 2000, De Beers marketed its goods through the London-based Central Selling Organization (CSO). As part of several corporate changes that year, the selling operation was shifted to the Diamond Trading Corporation.

As much as 60 per cent of the world's rough diamonds go through the DTC in a given year. De Beers once controlled a much greater share of the market, but today many believe that the "old cartel" is dead, or has changed beyond recognition. Certainly De Beers' share of the market has declined, but the rest of the industry still needs the service that De Beers has provided – not just in mining diamonds, but also in maintaining the price. The company spends \$200 million a year on advertising, and has yet to market a single diamond under its own name. That is coming, however, via a joint venture with LVMH, one of the world's leading luxury products groups, with brands such as Louis Vuitton luggage, Givenchy, Guerlain, Hennessy and champagne: Dom Pérignon, Veuve Clicquot and Moët et Chandon.

De Beers' contribution to diamond prices is not just the maintenance of high price levels, but also the maintenance of high levels *over time*. During economic downturns, the company reduces the volume of its offerings, obviously reducing its profits as well, and waiting for the market to change. The Asian slump of 1997, for example, was offset by the millennium diamond campaign: rough diamond sales during the first half of 2000 increased by 44 per cent over the same period in 1999.<sup>17</sup>

The economic downturn that began in 2001 was exacerbated by the Sept. 11 terrorist attacks in the United States. Sales from Antwerp to the US, already down during the first nine months of the year, dropped 38 per cent between Sept 11 and the end of October. Sales to Israel were down 45 per cent. One of the reasons for the 1999 Oppenheimer/Anglo-American buyout of De Beers and its subsequent removal from the stock market in 2000, was because De Beers share prices had been

Table 1 The diamond pipeline, 2000 Estimated Value in US\$ Billion

|   | 1.0  | Direct Mining Cost of Production |                   |         |          |              |                  |        |       |
|---|------|----------------------------------|-------------------|---------|----------|--------------|------------------|--------|-------|
|   |      | Australia                        | Angola            | Namibia | Botswana | S Africa     | Russia           | Canada | Other |
| Rough Production Value                                | 7.5  | 0.3                              | 0.7               | 0.5     | 2.2      | 0.9          | 1.6              | 0.4    | 0.9   |
| Producer Sales to De Beers DTC and Rough Distributors | 7.8  |                                  |                   |         |          |              |                  |        |       |
| Total Rough Supply by DTC and Producers to Market     | 8.8  |                                  |                   |         |          |              |                  |        |       |
|   |      | Belgium                          | Israel            | India   | USA      | S Africa     | Thailand + other | CIS    |       |
| Net Rough Purchased for local Production              | 9.6  | 0.3                              | 2.8               | 4.6     | 0.4      | 0.4          | 0.5              | 0.7    |       |
| Value of Polished from Local Production               | 12.8 | 0.4                              | 3.2               | 6.8     | 0.5      | 0.4          | 0.7              | 0.8    |       |
|   |      | Americas                         | Europe + S Africa |         | Japan    | Asia Pacific |                  | Other  |       |
| Value of Diamond Content in Retail Sales              | 13.7 | 6.5                              | 1.7               |         | 1.9      | 1.4          |                  | 1.2    |       |
| Retail Sales of Diamond Jewellery                     | 57.6 | 25.8                             |                   | 8.2     | 10.6     | 3.0          |                  | 9.9    |       |

Source: *Mazal U'Bracha*, No. 131, March 2001

<sup>17</sup> Hart, *op cit*, p.139



consistently under-performing. But they under-performed in the short-run precisely because the company has consistently worked for the long haul, not the shorter-term interest of transient investors.

### 3.3 Accessibility

Diamonds are derived from three main sources. Primary deposits are those that occur in basic volcanic rock, known as kimberlite. Secondary deposits are those that occur in alluvial deposits of weathered kimberlite. And a third source of diamonds is alluvials that over millions of years have washed downstream from kimberlites into oceans. One of the most prolific ocean sites lies along the Atlantic coast of South Africa and Namibia. In 1999, the Namibian diamond mining company, Namdeb, mined 1.5 million carats from the ocean floor and the beach, worth more than \$400 million.<sup>18</sup>

Although kimberlite is found worldwide, little is diamondiferous. If it is large enough and sufficiently diamondiferous to be mineable, the term kimberlite ‘pipe’ is used.<sup>19</sup> The mining of kimberlite pipes is an expensive and capital-intensive operation. Sometimes it involves huge open pit mines, but it may also involve extensive tunnelling underground. Major productive kimberlite pipes are usually mined by large companies with extensive investment funding. Although there are many kimberlite pipes in the world, a large proportion of diamonds are still recovered from alluvial deposits. Alluvial mining involves the separating of rough diamonds from earth and gravel. This can be done by a single person working with a sieve and shovel, or by large dredging machinery that remove tons of earth and gravel quickly.

A large proportion of the diamonds of Sierra Leone, Angola and the DRC are alluvials. With the collapse of law and order, or with the appearance of a rebel army, alluvial diamonds become an attractive source of revenue. The equipment needed to ‘mine’ them – in fact a better expression would be ‘dig them up’ – is minimal. No particular skill is required, and the operation can be carried out on a sporadic basis, as time and security allow.

This is not to suggest that all alluvial diamond-mining countries face certain conflict. But security is always a major issue where alluvials predominate. Namdeb suffers great losses from its beach mines. Brazilian mining is rife with theft, and formal Guinean diamond mining has been stopped completely on more than one

<sup>18</sup> Hart, *op cit*, p. 168

<sup>19</sup> Although technically, the term “kimberlite pipe” is used whether the pipe is diamondiferous or not.

occasion because of the government's inability to control illicit diggers. For well-organized rebel groups operating in a security vacuum, diamonds are almost free for the taking.

### 3.4 Secrecy

The value of a diamond is determined by what the industry calls “the four C's” – cut, colour, clarity, and carat. To these might be added a fifth C: concealment. Almost everything about the diamond industry is secretive, from the agreements between De Beers and African governments at one end of the spectrum, to the movement of a few stones across Hoveniersstraat in Antwerp at the other. At the high end of the chain, De Beers and other mining firms make their profit on the mystique and mystery of diamonds, and the detailed workings of a cartel are, by its very nature, secretive. De Beers is actually barred from operating in the United States because of unresolved price-fixing charges, levelled by the US Justice Department under anti-trust laws.

Throughout the diamond chain, security is always an issue. In addition to the pilfering and low-level theft of diamonds from mining sites, diamonds have been the object of many organized and violent thefts throughout the years. One of the best ways of dealing with this, especially where small firms are concerned, is by making the movement of diamonds as secretive as possible.

Historically, there has been an odd symbiosis in the industry between secrecy and trust. Major transactions are made on a handshake. Millions of dollars of diamonds are sent from one dealer, and one city, to another on approval, without paper work. As noted above, De Beers makes its goods available to sightholders in boxes of pre-selected diamonds with a fixed price. Sightholders may complain or refuse, but this is rare, and there is little bargaining. Sightholders must trust the quality and price indicated by De Beers, or find another source of diamonds. In fact, until recent years, there was no published price list anywhere for diamonds. When a New York *diamantaire*, Martin Rapaport, first published diamond prices in 1978, it was as though the known diamond world had come to an end.

It is often said that diamond dealers keep at least two, if not three sets of books. Some industry watchers say this is no longer common. However, the opaque nature of the industry makes it very difficult to know much about the volume and value of a company's business, or to distinguish between licit and illicit goods. Because many dealers or their families have been trading in Africa for generations, there are established connections and routes that, in the absence of adequate government

regulation, make the introduction of conflict diamonds into the legitimate stream extremely easy.

### **3.5 Portability and Lack of Government Control**

Lack of government regulation contributes to the conflict diamond phenomenon in two ways. At the most basic level, three states with alluvial diamonds have found themselves increasingly unable to control their diamond areas, ceding and sometimes taking them back from rebel armies. Just as significant a problem, however, is the lack of governmental oversight in the countries that trade, process and consume diamonds.

Congo-Brazzaville is one example. For years the fortunes of the Zaire/DRC diamond trade have been reflected in the ups and downs of exports from Congo-Brazzaville, a country with virtually no diamonds of its own. In July 2000, for example, DRC awarded a state monopoly on all diamond exports to a single Israeli firm, International Diamond Industries (IDI). The monopoly was to take effect 30 days after the agreement was signed. In August, before the agreement took effect, there were virtually no diamonds imported from Congo-Brazzaville to Belgium. In September, however, the figure jumped to 427,000 carats. Over the next two months, more than 2 million carats moved between Brazzaville and Antwerp. According to the Antwerp-based *Central Africa Minerals and Arms Review*,

Brazzaville, across the Congo River from Kinshasa, has long been a supplier of rough diamonds to Belgium; for example, Belgium imported over \$1 billion in diamonds from Brazzaville from 1996–1997. Regulations for exporting diamonds are much more lax in the Republic of Congo which has no domestic production. Export duties on rough diamonds are also cheaper than in the DRC – allowing traders in the Republic of Congo to pay higher prices for rough. Brazzaville’s diamond exports to Antwerp increased dramatically, from \$1.5 million per month before the creation of the IDI-Congo monopoly, to \$25 million per month after the monopoly took effect. This is based in the historical fact that attempts by Kinshasa’s governments to control the national diamond trade have been met by smuggling to neighbouring Brazzaville.<sup>20</sup>

Diamonds are also smuggled from the DRC into the Central African Republic, which does mine diamonds of its own, and from there they are exported as locally

<sup>20</sup> “Have Africa-based Monopolies Eliminated Conflict Diamonds?”, *Central Africa Minerals and Arms Review*, International Peace Information Service, Antwerp, Edition 2, 2001

produced diamonds.<sup>21</sup> Importers from Brazzaville, Gambia and other non-producing transit countries, so the industry argument goes, are not breaking any law – at least not any Belgian law. While the diamonds might not be clean, there is no embargo on Gambian or Congolese diamonds, so at the very worst, these are simply goods whose origin cannot be determined.

In addition to their value and their accessibility in some countries, diamonds are obviously highly portable and therefore difficult to control. They are small, easy to conceal and they do not activate a metal detector. Millions of dollars in diamond contraband can be carried in a small satchel. Customs departments in most countries can call on technical expertise to examine and assess diamonds. With the exception of Belgium and Israel, however, no non-mining country has in-house diamond expertise in their customs departments, and where this does exist it is for the purpose of valuation, not identification. As diamonds pass unhindered and mostly unchecked across US, Swiss, British and other EU borders, the value and origin recorded by customs departments as they are presented by the importer. Licensing and other regulations are stringent in some producing countries – South Africa, Botswana, Namibia, Russia – but elsewhere, especially in major consuming countries such as the US, there are none. In short, anyone can buy and sell diamonds, values are rarely checked, and there is no reconciliation between what a dealer buys and what a dealer sells.

There are three aspects to the control issue:

### **Controls In Producing Countries**

In producing countries the question is: Are there adequate controls between the mine and point of export, in order to ensure that conflict diamonds cannot enter the system? The short answer in most countries is no. Although there are checks in Sierra Leone, for example, there is no guarantee that at least some RUF diamonds are not being laundered into the legitimate system. There is no guarantee that they are not being laundered across the border into the Guinean system. There is *proof*<sup>22</sup> that they have been laundered into the Liberian system, and that diamonds are being laundered into the legitimate chain through Gambia, a country with no diamonds whatsoever, yet with significant diamond exports and an apparent inability to control the phenomenon.

<sup>21</sup> UN Security Council Report S/2001/1072, 13 November 2001, para 119

<sup>22</sup> Report by UN Security Council Panel of Experts on Sierra Leone, S/2000/ 1195, December 2000.

In Sierra Leone, Congo Brazzaville, Guinea, Liberia, Gambia, DRC and elsewhere, there have been long-standing problems of management and probity where diamonds are concerned. South Africa presents another side of the issue. South Africa has stronger and more explicit diamond regulations and controls than most countries. There are, on average, a thousand arrests each year under the South African Diamonds Act, and virtually none – where diamonds are concerned – under the criminal code.

Illicit diamonds have always entered the country, however, from other places. All that is needed, it seems, is a small plane and a dummy South African mine, for South Africa to constitute a ready opportunity for laundering another country's diamonds. Smuggling diamonds into and out of South Africa is not new. Descriptions of smuggling operations in the 1950s can be found in Ian Fleming's non-fiction 1957 book, *The Diamond Smugglers*, and in A.W. Cockerill's *Sir Percy Sillitoe; The Biography of the Former Head of MI5*. Sillitoe was hired by De Beers in 1954 to establish something called the International Diamond Security Organisation, in order to halt the smuggling that was rampant at the time.<sup>23</sup> It seems little has changed: A UN Expert Panel Report noted in November 2001 that "Coltan, diamonds and gold from the Democratic Republic of Congo are being smuggled into South Africa, either through its porous northern border or through its 4,000 unmonitored airstrips."<sup>24</sup>

In countries with kimberlite mines that can be ringed and fenced, such as in Russia, Canada and Botswana, it is more unlikely that conflict diamonds enter the system prior to export, but even there, security is tight and leaks still occur.

### **Controls During the Export Process**

Until very recently, there has been no way of knowing whether the diamonds that leave a producing country are the same as those that actually arrive elsewhere. In other words conflict diamonds could be inserted into a shipment en route. At first glance this seems unlikely. Diamonds shipped by De Beers from South Africa, or by BHP Billiton from Canada, move under the highest levels of security, with every imaginable form of seal and documentation. These shipments, however, are not especially vulnerable. It is others, moving between countries with less stringent controls, where switches can be made.

One major window of opportunity exists in transit countries. Until 2001, parcels of diamonds could be opened, mixed and re-invoiced in Swiss free trade zones,

<sup>23</sup> Fleming, Ian, *The Diamond Smugglers*, Pan Books, London, 1960; Cockerill, A.W., *Sir Percy Sillitoe; The Biography of the Former Head of MI5*, W.H. Allen, London, 1975, pp. 192-204

<sup>24</sup> UN Security Council Report S/2001/1072, 13 November 2001, para 109

without any government oversight or documentation. Switzerland has changed its regulations on this and has now established a better system for tracking diamonds, but parcels can still be opened, mixed and re-invoiced almost anywhere else in the world. Without an international agreement on such matters, those wishing to hide the origin of goods will be able to do so with very little effort.

Three certification systems have been developed in the past two years that are a partial solution to the problem of re-mixing en route. Belgium's Diamond High Council (HRD – its Flemish acronym) has worked with the governments of Angola, Sierra Leone and Guinea to devise a system that ensures that the package leaving the country of export is the same as that which arrives in Belgium. This will be discussed in greater detail below. These certificates serve as a model in broader discussions about certification, but so far they are simply voluntary bilateral arrangements between these three countries and Belgium. At a meeting of the inter-governmental Kimberley Process in Moscow in July 2001, the Guinean Delegation unveiled its new certificate of origin, and asked other countries present not to allow, henceforth, the importation of Guinean diamonds without the certificate. The EC representative replied that EU countries could import whatever they want, from wherever they want, and were not bound by any Guinean document. While this suggested an almost willing acceptance of criminality, the EC representative was in fact correct: documents such as Guinea's certificate of origin have no standing in international law and no backing under current trade agreements and regulations.

### **Controls After "First Import"**

In addition to shortcomings in producing countries and in transfer arrangements, there is a third area where government regulation is ineffective: in trading, producing and consuming countries after rough diamonds have arrived from the producing country. As noted elsewhere, few governments have any ability to determine whether rough diamonds arriving at their border are what they purport to be. Even Belgium, which has some of the best controls, has allowed billions of dollars worth of falsely declared "Liberian" diamonds to enter the country without question (see below). The authorities simply accept the statement of origin.

After the point of import, however, there is a further problem. Because diamonds are so portable, many simply bypass customs altogether. In some cases this is done to evade import duties. In others it is to avoid detection. Students, African traders, professional diamond dealers, gun runners cashing in their payment, money launderers – any and all simply work the commercial diamond districts of Antwerp, Tel Aviv, New York or their equivalents elsewhere, until they find a buyer. Journalists investigating the trade in London and New York routinely offer ostensibly stolen

‘conflict diamonds’ for sale to *diamantaires*, and always find a taker.<sup>25</sup> South Africa does require anyone in possession of rough diamonds to have a permit. However, apart from a handful of producing countries, few have anything so stringent. In most countries there is no tracking of diamonds, no requirement of a paper trail, no systems audit, and few specialized police forces.

### 3.6 Lack of Statistical Data

There is an almost complete absence of any reliable international trade statistics on diamonds. Belgium produces summary import and export data, and some statistics are available for other countries, but for many producing countries, there are no public statistics whatsoever. Those researching the issue have had to rely on relatively crude data to demonstrate the problem of statistics – and more importantly, to demonstrate the problem that the statistics, weak as they are, reveal.

For example Belgian statistics show imports from many countries that do not produce many diamonds (or in some cases, any at all): e.g. Congo-Brazzaville, Gambia, Uganda, Zambia, Rwanda. In other cases, they show imports that are far in excess of official production statistics – from Guinea, Cote d’Ivoire and elsewhere. In the worst case, Liberia, a country that at the best of times has never produced more than \$10 or \$15 million worth of low quality diamonds in a year, was shown as exporting \$2.2 billion in rough diamonds to Antwerp between 1994 and 1999.

These statistics, limited as they are, provide an important tool for those monitoring disparities and anomalies in the diamond trade.<sup>26</sup> The surprising thing is that the Belgian figures were public for years and were widely circulated. Not only did nobody in Belgium appear to notice the huge anomalies in trade figures, nobody throughout the entire industry did. In fairness, Belgium cannot be expected to “police” the entire diamond industry, nor should it be blamed for trading patterns over which it has no control. And while Belgium is a major direct importer of rough diamonds, it is not the only one. In fact, it has received more than its fair share of criticism, in part (ironically) because of its publication of statistics. Despite the call for more and better statistics from other countries, little has changed during the unfolding of the Kimberley Process. And because of the criticism, Belgium itself has

<sup>25</sup> For example the US network newsmagazine, *NBC Dateline*, aired a program on July 3, 2001 which showed New York diamond dealers, filmed by a hidden camera, offering to buy illicit ‘Sierra Leonean’ diamonds.

<sup>26</sup> See Smillie, Gberie and Hazleton, *The Heart of the Matter: Sierra Leone, Diamonds and Human Security*, Partnership Africa Canada, Ottawa, 2000

reduced its statistical output to a bare-bones list of generic diamond imports and exports.

There is a larger problem with statistics, which has to do with the country of origin. Diamonds, like some other products, are recorded as “originating” in the country of last export. This is, in fact, the “country of provenance” rather than the “country of origin”.<sup>27</sup> Statistics on country of provenance are important in the calculation of national trade statistics, and until recently, little serious attention was paid anywhere to the issue of where diamonds were actually mined. This can lead to major peculiarities. For example in 1999, British imports of rough unsorted diamonds totalled £107 million. Of this, Switzerland was recorded as the “country of origin” for 41 per cent, worth £44.2 million. Switzerland, as a non-producer of diamonds, could only have been the country of provenance, importing the diamonds from another country. Switzerland, however, recorded the importation of virtually no rough, unsorted diamonds at all.

The difference is explained, as noted above, by the fact that Switzerland did not record statistics on diamonds passing through its free trade areas at Zurich and Geneva airports. The volume of these flows was so great that it would have skewed national trade statistics, and since no value was added, there was, until recently, no felt need to record the statistics. Those diamonds bound for the UK thus became “Swiss” simply because they were re-invoiced as they passed through a Swiss free trade zone.

Origins are further obscured once diamonds have been sorted and/or partially treated in the UK. Under a different customs heading, the UK in 1999 became the origin of 96.7 per cent of all Swiss diamond imports. Having become “Swiss” on the way to the UK, a large proportion then become “British” on the way back to Switzerland. Because 96.4 per cent of Swiss diamond exports that year went to Israel, most of these same diamonds thus became “Swiss” again as far as Israeli import statistics were concerned.

The United States, India, Canada and most other countries maintain that they do not trade in conflict diamonds because most of their rough imports come from Belgium, Britain or Israel. Virtually no rough diamonds are imported directly from Africa. The operative word here, however, is “directly”. The lack of scrutiny throughout the delivery chain, the weakness in record keeping, along with stops and re-invoicing along the way, allow most importing countries to say that they do not import anything from Africa, conflict or otherwise, despite the fact that more than 75 per cent of the world’s diamonds by value are mined in Africa every year.

<sup>27</sup> The discussion on “origin” and “provenance” is drawn in part from the author’s notes made during his tenure as a member of the UN Security Council Expert Panel on Sierra Leone in 2000. More can be found on this issue in Security Council Document S/2000/1195, 20 December 2000.



## 4 Illicit Diamonds as a Cover for Conflict Diamonds

Conflict diamonds were closely linked with illicit diamonds. Diamonds have always been stolen and they have probably always been used as an alternative to cash as a medium of exchange, and latterly as a means of laundering money. In November 2001, the *Washington Post* published a lengthy article on connections between al Qaeda and Sierra Leone's RUF. The report said that Ibrahim Bah, noted in two UN Security Council Reports as a trafficker in stolen diamonds, had actually been a conduit between senior RUF commanders and buyers from both al Qaeda and Hezbollah, a militant Shiite Muslim organization.<sup>28</sup> This should not have been surprising. Several months earlier, William Wechsler, a past Director for Transnational Threats on the staff of the US National Security Council, wrote that al Qaeda funds "are moved through a variety of mechanisms, including under-regulated banks in the Middle East and elsewhere, then often transferred into better-regulated institutions after the funds' origins have been suitably obscured."<sup>29</sup>

In a now oft-quoted estimate, then Director of De Beers Diamond Buying, Andrew Coxon, calculated that conflict diamonds in 1999 amounted to approximately 3.7 per cent of the world's rough diamond production of \$6.8 billion.<sup>30</sup> The total was based on the following estimates:

This 3.7 per cent figure, rounded up to four per cent, has been widely quoted ever since, even though there is an error in the calculation for Angola. If conflict diamonds from Angola totalled 433,000 carats at \$300 per carat, the total would

Table 2 Estimate of conflict diamonds by weight and value, 1999

|                         | Angola        | Sierra Leone | Democratic Republic of Congo |
|-------------------------|---------------|--------------|------------------------------|
| Average Price per carat | \$300         | \$200        | \$180                        |
| Number of carats        | 433,000       | 350,000      | 194,000                      |
| Total                   | \$150 million | \$70 million | \$35 million                 |

<sup>28</sup> Farah, Douglas, "Al Qaeda Cash Tied to Diamond Trade", *Washington Post*, 2 November 2001

<sup>29</sup> Wechsler, William, "Follow the Money", *Foreign Affairs*, Volume 80 No. 4, July/August 2001, p. 47

<sup>30</sup> Untitled paper produced by A.M. Coxon, De Beers, March 2000

have been \$130 million, not the \$150 million in Coxon's calculation, making the percentage of world production closer to three per cent than to four per cent. The figures in any case have been alternatively challenged as being too high, or more often as being too low. An April 2001 UN report on Angola estimated UNITA smuggling at \$300 million or more in 1999, double the figure in Table 2.<sup>31</sup> The real numbers, however, cannot be known because of a larger problem: illicit diamonds.

It is widely acknowledged that a significant proportion of the rough diamonds that are traded every year has been stolen in one way or another. Estimates range around a 20 per cent figure, although this number has never been documented. The following discussion attempts to do so.

The six tables calculate the difference in value between the export of rough diamonds from five West African countries and the value of imports from these countries into Belgium, over a six-year period between 1994 and 1999.<sup>32</sup> All figures are in millions of US dollars.

The difference between official rough diamond exports from these five West African countries and imports into Belgium during the period 1994–9 averaged about \$663 million per annum. None of the countries in question is a diamond *importing* country; in other words, there is no officially sanctioned import of rough diamonds, so the issue of 'provenance' versus 'origin' does not arise. There is, for example, no reason to declare Liberia or Gambia as a country of provenance, except to disguise the true origin the goods. While some of the diamonds declared as Gambian may well have passed through Gambia, it is unlikely that the \$2.2 billion noted in Table 3 ever went anywhere near Liberia, one of the most unsettled and dangerous countries on earth during the years in question. It may be assumed, therefore, that all of these diamonds were one of two things:

- They were smuggled out, i.e. they were diamonds produced in the countries recorded by Belgian import authorities but which were not recorded as exports; or
- They were diamonds produced elsewhere and imported into Belgium under false declarations.

The former could be possible to a certain extent in the cases of Sierra Leone, Côte d'Ivoire and Guinea, although this is unlikely in the case of Côte d'Ivoire, where known production is significantly less than what was said to be imported into Belgium. The second explanation is the most likely, and can be the only one in the cases

<sup>31</sup> UN Security Council Report S/2001/363, 18 April 2001, para 54

<sup>32</sup> All figures have been produced by the governments of the countries in question, although only those for Belgium are currently in the public domain.

Table 3 Sierra Leone

|                 | 1994  | 1995  | 1996 | 1997  | 1998 | 1999 |
|-----------------|-------|-------|------|-------|------|------|
| Exports         | 30.2  | 22.0  | 27.6 | 10.5  | 1.8  | 1.2  |
| Belgian Imports | 106.6 | 15.3  | 93.4 | 114.9 | 65.8 | 30.4 |
| Difference      | 76.4  | (6.7) | 65.8 | 104.4 | 64.0 | 29.2 |

Table 4 Code d'ivoire

|                 | 1994 | 1995 | 1996  | 1997  | 1998 | 1999 |
|-----------------|------|------|-------|-------|------|------|
| Exports         | 3.1  | 2.9  | 2.4   | 4.0   | 3.6  | 4.6  |
| Belgian Imports | 93.6 | 54.2 | 204.2 | 119.9 | 45.3 | 52.6 |
| Difference      | 90.5 | 51.3 | 201.8 | 115.9 | 41.6 | 48.0 |

Table 5 Liberia

|                 | 1994  | 1995  | 1996  | 1997  | 1998  | 1999  |
|-----------------|---|-------|-------|-------|-------|-------|
| Exports         | No data available because of civil war, although no official exports are likely to have occurred. |       |       |       | 0.8   | 0.9   |
| Belgian Imports | 283.9   | 392.4 | 616.2 | 329.2 | 269.9 | 298.8 |
| Difference      | 283.9   | 392.4 | 616.2 | 329.2 | 269.1 | 297.9 |

Table 6 Guinea

|                 | 1994  | 1995  | 1996 | 1997  | 1998  | 1999  |
|-----------------|-------|-------|------|-------|-------|-------|
| Exports         | 28.6  | 34.7  | 35.5 | 46.9  | 40.7  | 40.2  |
| Belgian Imports | 165.7 | 26.2  | 83.6 | 108.1 | 116.1 | 127.1 |
| Difference      | 137.1 | (8.5) | 48.1 | 61.2  | 75.4  | 86.9  |

Table 7 Gambia

|                 | 1994 | 1995 | 1996  | 1997  | 1998  | 1999 |
|-----------------|------|------|-------|-------|-------|------|
| Exports         | 0    | 0    | 0     | 0     | 0     | 0    |
| Belgian Imports | 74.1 | 14.9 | 128.1 | 131.4 | 103.4 | 58.0 |
| Difference      | 74.1 | 14.9 | 128.1 | 131.4 | 103.4 | 58.0 |

Table 8 Summary. Excess of Belgian Diamond Imports over West African Exports (US \$ 000 000)

|               | 1994  | 1995  | 1996   | 1997  | 1998  | 1999  |
|---------------|-------|-------|--------|-------|-------|-------|
| Sierra Leone  | 76.4  | -6.7  | 65.8   | 104.4 | 64.0  | 29.2  |
| Cote d'Ivoire | 90.5  | 51.3  | 201.8  | 115.9 | 41.6  | 48.0  |
| Liberia       | 283.9 | 392.4 | 616.2  | 329.2 | 269.1 | 297.9 |
| Guinea        | 137.1 | -8.5  | 48.1   | 61.2  | 75.4  | 86.9  |
| Gambia        | 74.1  | 14.9  | 128.1  | 131.4 | 103.4 | 58.0  |
| Total         | 662.0 | 443.4 | 1060.0 | 742.1 | 553.5 | 520.0 |

of Gambia and Liberia. Liberian diamond production has never been significant in either volume or quality, and Gambia has no diamond production whatsoever. All of the diamonds mentioned in Table 6, therefore, are illicit diamonds, representing approximately ten per cent of annual world production.

Additional estimates of illicit goods can be added to these:

- The CEO of the Angolan Selling Corporation (ASCorp) has said that between \$350 and \$420 million in smuggled diamonds left Angola in 2000, representing about five per cent of world supply;<sup>33</sup>
- A significant proportion of Belgian imports from Congo Brazzaville (\$2.2 billion between 1994 and 1999, or \$377 million per annum on average). Although Congo Brazzaville does produce diamonds, the total is significantly less than this. The total represents an further five per cent of world supply;
- The direct imports of West African diamonds into Britain, Israel, the US, the U.A.E., Switzerland and elsewhere. While these are not significant, and may be backed by legitimate export documentation, the numbers would have the effect of inflating the Belgian figures;
- Theft from mines and afterwards; estimates vary: 30 per cent from Namibia's Namdeb in 1999; 2–3 per cent of Botswana's \$2bn annual production; as much as 40 per cent of all Russian production;<sup>34</sup>
- Laundering through, and/or theft from other significant producing countries: Angola, DRC, South Africa, Namibia, Central African Republic, Ghana;
- Laundering and/or theft in or through other significant trading, cutting and polishing countries: Israel, India, Switzerland, Britain, the US;
- Laundering and/or theft through smaller conduit countries such as Portugal and Germany.

There is undoubtedly some double counting in these figures. Some of the smuggled Angolan goods may be counted in the figures of Brazzaville or West Africa, for example. But these figures, and the potential in countries for which there are no figures, suggest that an estimate of 20 per cent of world trade as illicit is more than possible, and that it may be conservative.

Why is the level so high? Reasons for the illicit trade are the same as those for the existence of conflict diamonds: value, portability, accessibility, secrecy, lack of government controls, an absence of data for checking even the most rudimentary

<sup>33</sup> UN Security Council, S/2001/966, para 141, 12 October 2001

<sup>34</sup> Hart, *op cit*, pp.159-181

movement of diamonds between and within countries. These “reasons” represent the *opportunity*. The *motivation* in the past was predominantly simple tax evasion and money laundering, and this continues. Where money laundering is concerned, diamonds offer an attractive alternative to hard currency, often in short supply in Africa. More recently, however, there have also been links to drug money and organized crime.<sup>35</sup> At the far end of the spectrum, conflict diamonds are essentially illicit diamonds that have gone septic. They have simply been used for a new purpose – to pay for weapons in rebel wars.

<sup>35</sup> Smillie, Gberie and Hazleton, *op cit*, pp. 44-47; UN Report S/2000/1195, pp. 32-40



## 5 Efforts to Curb the Problem

As noted above, the effort to halt conflict diamonds began in the middle of 1998, with a UN Security Council resolution on Angola. Since then, NGOs, the diamond industry, politicians, individual governments and the United Nations have become engaged in a large and concerted effort to deal with the issue. Progress has not been smooth, nor has it been linear in nature. There is a tangled web of cause and effect, with confrontational clashes, initiatives overlapping, tempers flaring and expectations rising and falling through a long series of intergovernmental meetings, startling revelations and intense media interest. A chart contained in Annex 1 outlines the various streams of activity.

### National Controls

Over the past 50 years, there have been a variety of attempts to deal with the issue of illicit diamonds. One has been the creation of special security forces and diamond-specific legislation in producing countries. During the 1960s, the Sierra Leone Selection Trust, which held a lease on the country's most lucrative diamond areas, had a mobile security force of 500 men, as well as two spotter helicopters. The South Africa Diamonds Act requires licences or permits to possess, buy, sell or process rough diamonds. Laws of similar stringency exist in other producing countries: Russia, Namibia, Botswana, and Angola. All producing countries, in fact, require a variety of licences and permits to mine rough diamonds, and in many African countries this extends to trading and exporting as well. These requirements are enforced with varying degrees of vigour, but they have clearly not stopped the trade in illicit diamonds, and if they have any efficacy at all, it can only be assumed that the problem would be much worse if they did not exist. Collectively, however, they are ineffective in dealing with a problem that affects at least 20 per cent of the industry.

On the 'receiving end' of the rough diamond trade – Belgium, Israel, Britain and elsewhere – government oversight has ranged from 'something' to nothing. Belgium has in recent years had the most stringent controls. This is understandable because more than 80 per cent of the world's annual production of rough diamonds pass through Antwerp every year. A majority of De Beers sightholders reside in

Antwerp, and Antwerp has long been the world capital of the diamond trade. Ninety nine per cent of all diamonds imported are exported again to other trading and manufacturing centres. The Value of Belgian diamond exports in 1999 was US\$12.2 billion. Diamonds therefore represent an important part of the Belgian economy, and it has been in Belgium's interest to manage the industry's vulnerability as best it can.

Belgium is the only country in the EU that requires an import or export licence for every shipment of diamonds. In the case of imports, the countries of both provenance and origin must be stated, although in most cases only provenance is verifiable. All diamond dealers must be registered with the Ministry of Economic Affairs and all diamonds imported or exported must pass through the government Diamond Office where they are inspected and cleared by trained customs officers. A similar system exists in Israel, although there is nothing that even remotely matches this kind of operation in other major importing or transit countries: Britain, Switzerland, India, the United States.

The problems with the absence of controls and data collection in transit countries such as Switzerland have been noted above. When the Swiss case was made public in the UN Sierra Leone Report in December 2000, the Swiss government moved to plug the loophole, and has instituted measures to monitor and report on the movement of diamonds through its free trade zones. After criticism in the Fowler Report and the Sierra Leone Report, Belgium further tightened its controls. Most countries have issued directives to their customs authorities to prevent the entry of diamonds from countries under a UN embargo (i.e. Sierra Leonean and Angolan goods without a government certificate; all 'Liberian' goods).

The development of certificates of origin in Angola, Sierra Leone and Guinea has helped as well, sponsored mainly by Belgium's Diamond High Council. This has served to distinguish government-approved goods from others declared as originating in these countries, and has permitted a revival in the fortunes of the legitimate diamond trade, especially in Angola and Sierra Leone. The certificates of origin instituted in Angola, Sierra Leone and Guinea are essentially bilateral arrangements between those countries and Belgium. Because the Belgian HRD helped to create the system, Belgium takes it very seriously. But with the exception of Israel, the system is unknown to customs officials in most other importing countries.

These changes, taken together, have had some impact on the trade in conflict diamonds, and perhaps even on the trade in illicit diamonds. But overall the impact has been very small, and none of the efforts has dealt with systemic problems. Swiss trade may have become more transparent, but every year a billion dollars worth of rough diamonds pass through other transit points where there are no controls, no government oversight and/or no statistics. Belgium may have stringent controls, but as a member of the EU, it requires little or no paper work from other EU member



states. Diamonds can as easily enter Belgium via Italy or Greece as they can from Africa, and they might never be noticed. In addition, although Belgium allows diamonds into the country if they are accompanied by a licence stating origin and provenance, there is no verification of the information presented, hence the import of billions of dollars in diamonds from Liberia, Gambia and Congo Brazzaville during the 1990s. With the exception of Liberia, such imports continue. While there might be a moral argument to be made on this point, there appears to be nothing illegal in Belgium – or anywhere else for that matter – in importing diamonds with dubious credentials.

## The United Nations

UN Security Council embargoes have been the most effective means of alerting importing countries to the problem of conflict diamonds. The current ban on Liberian diamonds has effectively dried up that channel as a means of laundering conflict and illicit goods. It has not, however, stopped the flow of conflict diamonds from Sierra Leone. The RUF has, in fact, continued its mining, perhaps even increasing it since a peace agreement came into effect in May 2001.<sup>36</sup> Their goods are now being laundered into the legitimate stream in other ways. This could be through Liberia – without formal government sanction – or through any one of several neighbouring countries. Or the goods could be moved to Belgium or another major centre without *any* paper work. Because of their portability, because of the secrecy of the industry and the lack of any statistical data base throughout the industry, once they have arrived in the diamond districts of New York, Antwerp, Ramat Gan in Tel Aviv and elsewhere, their *sub rosa* disposal presents absolutely no challenge.

The various UN Security Council Reports on Angola make dismal reading where the effectiveness of diamond sanctions is concerned. The Fowler Report, issued in March 2000, almost two years after the Security Council ban was instituted, found that Angolan conflict diamonds were entering the world market with impunity because of the complicity of other African governments – notably Burkina Faso and Rwanda. It noted “the ease with which illegal diamonds can be sold and traded on major diamond markets, particularly in the largest diamond market – Antwerp.”<sup>37</sup> In December that year, the reconstituted Expert Panel reported the following:

<sup>36</sup> Although the RUF agreed to stop mining, it has (at the time of writing) not. UN Peacekeepers patrol the mining areas but have no mandate to intervene, and government authority remains weak.

<sup>37</sup> UN Security Council Report S/2000/203, 10 March 2000, para. 106

It is clear that neither a certificate of origin system nor simply “naming and shaming” will prevent dealers from buying from UNITA. There are longstanding business relationships between UNITA and dealers not yet publicly named and it is clear that these will continue while UNITA has diamonds that help these players position themselves in the higher fraction of the market.<sup>38</sup>

The Expert Panel reported again in October 2001, stating that between US\$350 million and \$420 million was smuggled out of Angola as conflict or illicit diamonds in 2000, a figure equal to five per cent of total world production. The report stated that,

The primary responsibility for intercepting diamonds mined in defiance of the embargo clearly lies with States, yet diamonds equivalent to the production of an entire country are reaching markets across the world. To date, not a single parcel of illicit Angolan gems has been intercepted anywhere... beyond one suspected parcel in Belgium... No diamond dealer has claimed to have witnessed Angolan gems being traded on any diamond bourse. These diamonds seem to vanish into thin air after leaving Angola. How is this even possible, given the magnitude of the trade, which is close to the output of Australia or Namibia? Perhaps more importantly, why is it possible for diamonds to vanish?<sup>39</sup>

The answer to this question was addressed in previous sections of this paper: there are simply no internationally agreed mechanisms to monitor the movement of this highly portable, accessible and valuable commodity. That is what the Kimberley Process has sought to develop.

## Industry

Until the reports of Global Witness, PAC and the Fowler Report, De Beers, Antwerp, and most of the diamond industry were in a state of either denial or ignorance on the subject of conflict diamonds. Because both Fowler and PAC were Canadian, the Belgian industry and government appeared to put two and two together and got twelve, imagining a massive Canadian plot to transfer the centre of the diamond universe from Antwerp to – perhaps – Yellowknife. There were some in the industry, however, who took the matter seriously, not least because it was

<sup>38</sup> UN Security Council Report S/2000/1225, 21 December 2000, para. 209

<sup>39</sup> UN Security Council Report S/2001/966, 12 October 2001, paras. 141, 146

gaining more and more attention in the media, to the very real detriment of the industry.

In March 2000, Martin Rapaport, the outspoken American diamond dealer who had been the first to make diamond prices public, visited Sierra Leone. He was not only appalled at what he saw, he posted *The Heart of the Matter* on his website<sup>40</sup> and wrote a widely circulated article entitled “Guilt Trip”. Among other things, he observed that

Hundreds of millions of dollars of Sierra Leone diamonds are being traded on the world markets without any benefit going to the government or people of Sierra Leone. The real problem facing Sierra Leone is not merely how to share diamond resources among warring factions, but how to stop the illegal diamond industry from stealing the country’s resources. But it goes beyond that. The bastards are not just stealing Sierra Leone’s diamonds, they are trading them for guns. Guns which are used to kill people to keep the war going... The real challenge facing Sierra Leone and the world diamond trade, is how to stop this horrific murderous cycle of illegal diamond activity.<sup>41</sup>

Later in the summer of 2000, other events took place that had far-reaching ramifications for the diamond industry and for Sierra Leone. The first was a Security Council ban on the export – direct or indirect – of all Sierra Leone diamonds until an acceptable certification process could be put in place. A joint Belgian/UK/US mission to Sierra Leone was immediately undertaken in order to develop such a system, and details were unveiled – and approved by the Security Council – at the beginning of August.

Just before that, in July, the World Diamond Congress was held in Antwerp. Normally devoted to the technical and commercial aspects of the industry, this Congress was given over almost entirely to the issue of conflict diamonds. Representatives from governments and NGOs participated, and the industry agreed to reforms that proposed the most fundamental set of changes it had ever seen. Essentially, the industry called for regulatory legislation in all countries that import diamonds – whether producer, manufacturer or dealer. Banks, insurance companies, shippers and others would be brought into the system. A World Diamond Council was proposed and subsequently inaugurated to help move the process forward.

Then came two days of hearings held by the Security Council’s Sierra Leone Sanctions Committee in New York. These aimed to explore the connection between diamonds and guns in the conflict. The hearings were noteworthy for the fact that

<sup>40</sup> URL: <http://www.diamonds.net>

<sup>41</sup> Rapaport, Martin, “Guilt Trip”, *Rapaport Diamond Report*, Vol. 23, No. 1, April 7, 2000

for the first time in United Nations history, they were open to the public, and were widely reported. In fact by the summer of 2000, the issue of conflict diamonds had been covered in depth in all the major media, with feature articles appearing, or soon to appear, in *Time*, *Newsweek*, the *New Republic*, *Vanity Fair*, *Esquire* and others. *60 Minutes*, *NBC Dateline*, and their counterparts in Japan, Australia, Britain and South Africa all carried major television reports on conflict diamonds. None of them showed the diamond industry in a good light.

For the diamond industry the challenge was twofold. First, as Rapaport suggested, the industry had a moral obligation to make sure that its product was not tainted. Secondly, there was a public relations problem, fanned now by a growing number of churches and NGOs, which threatened to get out of hand. There were dark references to “seal hunt” and “fur trade”, and although no responsible NGO talked about a boycott – understanding that many poor people in poor countries would suffer as a result – the concept of “consumer action” was very evident in NGO campaigning to solve the problem.

Starting in 2000, diamond bourses around the world began developing codes of conduct. From Bombay and Ramat Gan to Antwerp and New York, all warned of dire consequences should any member be caught dealing in conflict diamonds. The diamond industry is small, they said, and anyone expelled from one bourse would never be allowed into another. By 2001, several companies had been named in UN Security Council Reports as having imported diamonds under false declaration into Belgium. Beyond a letter of reprimand, however, nothing happened. Industry leaders said that there was no legal definition of a ‘conflict diamond’. And apart from three specific UN Security Council resolutions, there is no law against importing diamonds from, Gambia for example, even if Gambia was “named and shamed” in a UN report and even if Gambia has no diamonds.<sup>42</sup> Importers from Gambia and other non-producing transit countries, so the new industry argument goes, are not breaking any law – at least not any Belgian law. While the diamonds might not be clean, there is no embargo on Gambian or Congolese diamonds, so at the very worst, these are simply goods whose origin cannot be determined. A company importing such goods cannot be expelled from a diamond bourse, because without proof of lawbreaking, such a move could be actionable in a court of law.

By the end of 2000, Oxfam, World Vision, Amnesty International and a range of brand name NGOs had taken up the issue. Perhaps the most striking individual NGO PR effort was a 30 second spot at the end of the closing 2001 episode of the popular television program, *The West Wing*. The voice of actor Martin Sheen, who

<sup>42</sup> 32 Belgian companies were named in the December 2000 UN Report, S/2000/1195, para 128; Gambia was named – and judging from the Gambian government’s violent reaction, shamed – in paras 131-3. See also UN Report S/2001/1015, October 2001, para 364.

plays the US president, was heard over images of fighting and child amputees: “Buy a diamond and you may be supporting terrorism in another country.” World Vision commissioned the video – which was subsequently aired elsewhere in the United States – in support of a “Clean Diamond Bill” that had been introduced into Congress. “The Clean Diamond Act can stop the killing,” said Sheen.

## **The Clean Diamond Act**

Early in 2000, two US Congressmen, Democrat Tony Hall and Republican Frank Wolf, visited Sierra Leone. They were so appalled by what they saw, and by the connection they made between the atrocities perpetrated during the conflict and diamonds, that they introduced a bill in July of that year to ban conflict diamonds from the United States. Named “The CARAT Act”, the bill sought to deny the import of any diamonds from countries that were not part of an international certification system. Such a system was envisaged by the Kimberley Process, which by then had already met twice to discuss the matter. The CARAT Act was in fact aimed to support that international process.

As in other countries, there are many obstacles to the passage of bills that are not presented by the sitting government, and after several months the CARAT Act disappeared for a variety of reasons. Undeterred, Hall and Wolf, joined by another Representative, Cynthia McKinney, introduced the “Clean Diamond Act” in March of 2001. This bill, more refined than its predecessor, had the backing of more than 80 Members of Congress as well as a growing American NGO lobby. The Act, if passed, aimed to prevent diamonds entering the United States from any country not part of a global certification system. This is notable for two reasons. First, consumers in the United States buy about half of all the gem diamonds produced in a year. Such an act would have an immediate and salient impact on the industry everywhere. And second, there *is* no global certification system. The implication, therefore, was that one must be developed as a matter of urgency.

The American diamond industry, however, had been working on its own, softer version of a bill, and this was presented in the Senate in April 2001 by Senator Judd Gregg. Weeks of discussion, lobbying and NGO public campaigning resulted in a compromise, agreed in August 2001, and renamed “The Clean Diamond Trade Act”. This version, however, was held up by the Bush administration, which wanted broader powers to exempt non-participating countries as part of its post-September 11 anti-terrorism efforts. The amended bill passed the House of Representatives on November 28 by a majority of 408–6, but subsequent efforts to strengthen it again in the Senate were resisted by the administration, and the clock ran out with

the Christmas recess. New legislation was introduced in the Senate in March 2002, but it was unclear whether it would fare better than its predecessors.

## **The Kimberley Process**

The need for a global certification system had become apparent to a number of other countries. As a result, multilateral negotiations, called the Kimberley process, grappled with the issue of how to ensure greater probity in an unregulated industry, and how to end the phenomenon of conflict diamonds.

The Kimberley Process began in May 2000 at the instigation of the Government of South Africa. South Africa, Botswana and Namibia viewed the growing publicity on conflict diamonds with as much alarm as the diamond industry. Damage to the industry would be reflected in damage to jobs in these countries and to their economies as a whole. The first meeting was inconclusive, but the second meeting, held a month later in Luanda, fleshed out the basic principles required of an international certification system: strict controls in diamond producing, processing and consuming countries, certificates of origin and legitimacy (the latter to be issued by trading rather than producing countries), and the need for the industry to develop a chain of warranties to reassure consumers.

The next four Kimberley Process Meetings (Pretoria, Windhoek, Brussels and twice in London) were variations on this theme. These first meetings, it turned out, were little more than introductions to the topic and the players. Designed at first as an opportunity for governments, the industry and concerned NGOs to share views and debate possible solutions, they became more governmental in character as the nature and scope of the problem clarified. Most countries considering a global certification system for rough diamonds would require inputs from their departments of trade, customs, mining, foreign affairs, justice and others. How such a system would relate to WTO regulations was a further consideration. A workable system would require a significant degree of congruence and agreement among all the major diamond producing and processing countries, and enough authority to ensure that smaller players could not become loopholes in the system.

The Kimberley Process was given an important fillip in December 2000 when the UN General Assembly, seized of the issue's gravity, passed a unanimous resolution on 'breaking the link between the illicit transaction of rough diamonds and armed conflict'.<sup>43</sup> The resolution expressed the need to give 'urgent and careful

<sup>43</sup> UN General Assembly Resolution A/RES/55/56, 1 December 2000

consideration to devising effective and pragmatic measures to address the problem of conflict diamonds.’ Elements would include:

- the creation and implementation of a simple and workable international certification scheme for rough diamonds;
- a system based primarily on national certification schemes;
- the need for national practices to meet internationally agreed minimum standards;
- the need for the widest possible participation;
- the need for diamond processing, exporting and importing states to act in concert;
- the need for appropriate arrangements to ensure compliance;
- the need for transparency.

Several important governments were not present at the early Kimberley meetings - Russia, India, Switzerland, DRC. Poor preparation for the early meetings resulted in little more than vague promises to do better at the next one. Discussions evolved, however. After the UNGA resolution, new players came to the table, and at the February 2001 meeting in Windhoek, a roadmap was agreed, aiming to reach a detailed proposal for a certification system by the time of the October 2001 meeting, to be held in Angola. At the April 2001 meeting in Brussels, there were 38 governments present, but the meeting was a disappointment. It reviewed the results of a detailed questionnaire about how countries monitor and tax the movement of rough diamonds. It discussed what a ‘certificate of origin’ could look like. It discussed whether free trade zones should be part of an international certification system, and debated the feasibility of tracking mixed parcels of diamonds after the point of first arrival from a producing country.

In the end, however, there was no agreement on anything, except to keep on meeting. A draft communiqué, debated for almost two hours, epitomized the problem. The original wording said that ‘there was broad consensus on the common elements of the certificate of origin as a building block for a certification scheme for rough diamonds’. This sentence alone became the subject of debate for almost half an hour, with delegates from the US, the EC, Russia and Australia saying that they had come with no mandate to *agree* to anything, and that such wording was unacceptable. There was, they said, no ‘*broad* consensus’, and finally the wording was changed to ‘*emerging* consensus’. The implication for anyone with an understanding of language was that the US, the EC, Russia and Australia simply did not concur with what others thought had been agreed.

There appeared to be two unspoken stumbling blocks, and these remained unresolved in the meetings ahead. One was the potential cost and complexity of putting an effective system in place. The second had to do with international inspection. In the early days of the Kimberley Process, it had been agreed that any international system would be based primarily on national control systems. In other words, Russia would not have to revamp its entire diamond mining oversight system as long as it met what were being referred to as 'minimum' standards, to be agreed internationally. The unspoken understanding in some quarters was that the system would therefore be self-regulating. As a 'strategic mineral' for some countries, diamonds could certainly not be subject to international inspection. This would be an infringement of national sovereignty.

The Kimberley meetings were not attended by governments alone. The original NGO protagonists, Partnership Africa Canada, Global Witness and others were there as well, along with key industry representatives. For the NGOs, self-regulation was a non starter, and by September 2001, temperatures had begun to rise. An NGO petition, signed by 180 NGOs in more than 25 countries, put it this way:

*Self-regulation will not work.* Too many governments, companies and individuals have already proven themselves unworthy of trust, at the expense of tens of thousands of lives. Governments and the diamond industry must produce a practical agreement *now*, and it must be an agreement with credible international monitoring provisions built into it. All countries involved in the production, movement and processing of rough diamonds *must* agree to minimum international standards, and these *must* be open to international scrutiny. Nothing less will suffice if consumers are to have the confidence they need and deserve when they purchase something as expensive and as important as a diamond.<sup>44</sup>

The EC delegate broke the unproductive stalemate by drafting a paper for the eighth Kimberley Meeting, held in Moscow in July 2001. The paper, 'Essential Elements of an International Scheme of Certification for Rough Diamonds', displeased almost everyone at the meeting in some way, but after seven meetings without a single substantive piece of paper before them, delegates at last had something that brought all the proposals and issues together in one place. The next three meetings of the KP debated various iterations of this document, with different governments taking responsibility for the coordination of inputs from participating countries, NGOs and the industry. This was a complex and time-consuming process, but at least it was a *process*, and it helped move many participants away from impossible positions and outright rejection.

<sup>44</sup> Draft NGO statement for the London KP Meeting, September, 2001



By November 2001, the Kimberley Process was nearing the end of the job it had set for itself. The last meeting before the deadline set by the UN General Assembly took place at the end of the month in Botswana. 'Essential Elements' emerged from the meeting in its 10<sup>th</sup> draft, and did contain all of the 'essential elements' of a global certification system:

- provisions for a certificate of origin;
- provisions for internal controls in producing countries as well as in trading and processing countries;
- the creation of a common statistical data base on the trade in rough diamonds;
- a statement on verification of national compliance.

In addition, the World Diamond Council had spelled out its understanding of what an industry-managed 'chain of warranties' could look like, and had agreed - after much resistance - to external verification of such a system..

The document, the ministerial statement that followed it and the resolution that was drafted for debate in the UN General Assembly were all enthusiastically positive about the work that had been done. But there were serious behind-the-scenes problems:

- the much-debated wording on statistics put details of what might be contained in a common data base off to a further *ad hoc* working group. Such working groups on statistics had been attempted before, and nothing could be agreed;
- there remained uncertainty about the agreement's WTO compatibility (see below);
- it was agreed that future decision-making would be reached by consensus. 'Consensus', as it operated in all previous Kimberley Process meetings, essentially means that any one country has a veto. With the system open to all countries that signify an interest in joining, this suggests a 'lowest-common-denominator' approach to the undoubtedly complex and controversial issues ahead;
- the provision for external monitoring of national systems was so feeble that the NGOs present at the meeting insisted that they be disassociated from it - in writing - in any document that went forward;
- all reference to a secretariat to manage the system was removed at Russian insistence, and discussion on administrative support was postponed to a future meeting;

- it was agreed that the agreement was not, in fact, an agreement. Rather it was a set of ‘recommendations’ that would be accepted on a voluntary basis by participating countries.

In February 2002, the UNGA endorsed the progress that had been made and asked for a further report when the job was completed. A final meeting of the Kimberley Process was held subsequently in Ottawa to address outstanding issues. This unplanned meeting turned out to be the most productive of the entire series.

### **The WTO**

There was a major debate about whether the KP system might be seen as trade-restrictive, thus incurring a potential WTO challenge. The US and others wanted it to be WTO-proof, which could have involved a number of additional steps or compromises before the system could be adopted. In Ottawa, the argument put forward most eloquently by the Swiss delegation prevailed: the proposed KP system is open to all countries; all the major producing and trading countries are at the table, including the five Permanent Members of the Security Council. The human and national security provisions in the GATT safeguard the KP system from challenge. Rather than weaken or delay the system in anticipation of problems, the Kimberley participants should see whether any actually emerge, and deal with them if they do. Although there were rumblings about further consideration by some delegations, this became the consensus, and the issue seemed to have been satisfactorily resolved.

### **Statistics**

Until July 2001, the idea that production and trade statistics should be gathered and/or made public was an anathema to some countries, notably Russia. Although the debate at subsequent meetings was long and often very technical, the agreement in Ottawa was significant. Essentially all countries agreed to produce quarterly trade statistics and semi-annual production statistics within two months of the reference period. Countries will use their own statistical arrangements, but will endeavour to ensure that these relate to the international customs harmonized system (HS) codes. Statistics will be collated centrally. It was agreed that an existing intergovernmental body with the capacity for this will be approached to handle the task (IMF and World Bank were mentioned). This is a significant step forward from Botswana, and a huge step forward from earlier meetings. The devil, of course, will be in the details. For example, will the statistics actually *be* harmonized? The value in finding an existing body to collate and analyze the data is that such a body will be at arms length from the political and commercial concerns expressed at all the meetings, and may well

be able to bring consistency and objectivity to the exercise. A further reason for attempting to find such a body, was the continuing resistance to the creation of a secretariat.

### **Secretariat**

To outsiders and at least some participants, it seemed perfectly logical that the KP system would need a secretariat to coordinate its many functions, but this logic was not clear to all participants. Many (including the US and Russia), were skeptical if not hostile to any discussion about a secretariat until the system was fully agreed. Concerns related to cost, bureaucracy, and the potential for such a body to gain discretionary power over and above the Plenary (in which all authority is currently vested). After Botswana, the EC chaired a working group on this issue, and presented a calculation to the Ottawa meeting of the person-days required in a year to provide the coordination services required. The total was 214 days - about one person-year. The functions, however, were many, and would require varying degrees of technical skill and judgement. The logic that flowed from that analysis (if accepted), was that the secretariat functions could/should be distributed among various participants (essentially falling to whichever country volunteers and is willing to cover the cost), with the exception of the statistics matter, described above. NGOs favoured a centrally-located secretariat, simply because the KP system is so complex and so detailed. By scattering it across the world, there is a risk of weakening key elements. There was skepticism about the 214 person-day calculation as well. It was agreed, however, that this would not be a deal-breaker, and after a year or so it would become more apparent whether the agreed approach or another make sense.

### **Monitoring**

Here, little progress was made. NGOs had insisted from the beginning that independent, impartial, external, regular monitoring of *all* national control systems had to be a part of the system. Without this, the system would have no credibility, and it would allow for wide range of loopholes in the system. NGOs agreed that any country could reject a review mission (because this is a fact of life), and they said, in writing, that they were not seeking a place for themselves on such missions. Governments would appoint the actual team members. This issue, however, sparked an enormous and ugly debate twice during the plenary meeting in Ottawa, with NGOs on one side, and virtually everyone else on the other.

The final wording on review missions says that they will be triggered only when there are 'credible indications of significant non-compliance' with the KP system. They will be conducted with the consent of the country concerned. The size, com-

position, terms of reference and time-frame of missions will be 'established by the Chair', 'in consultation with all Participants'. In other words there will be no regular, independent monitoring mechanism.

### **The EC Wrinkle**

A further unresolved problem remained with regard to the European Union. The EC came to the Kimberley Process half way through its deliberations, and its delegate immediately became a key figure in the debates. On the last day of the ninth meeting, he unexpectedly announced that the EC should be speaking exclusively on behalf of member countries, and that the issuance of trade certificates between EC member states such as Britain and Belgium contravened EC regulations. It would be the same thing as requiring California to issue a trade certificate for goods shipped to New York.

Thus, at the tenth meeting and subsequently, the EC delegate did all of the talking for European states, with Britain and Belgium - two key diamond trading states - sitting obediently quiet. By the early months of 2002, the Belgian government was becoming alarmed at comments from the EC that its diamond regulatory system was in conflict with EC regulations and that it should be dismantled. NGOs made the point at several meetings that nothing should be done to dismantle Belgian controls until something at least as strong, if not stronger, was put in place throughout the EU.

## 6 Conclusions, Lessons and Recommendations

### 6.1 Analytical Considerations

“Diamonds don’t kill people; guns kill people.” This phrase is often heard at gatherings of the diamond trade. One might also say that grievances – fuelled by poverty, repression, political alienation and ethnic division – are the underlying causes of conflict; that these kill people. Another school of thought, led by Samuel Huntington, Robert D. Kaplan and others, posits today’s complex emergencies as a “clash of civilizations” or as mindless anarchy<sup>45</sup> – this is what kills people.

A more nuanced approach to the subject has developed in recent years. David Keen points out that wars have not always been fought for political or strategic reasons, and rarely have they been fought out of mindlessness. Since medieval times if not before, armies and their backers have regularly fought for material profit – to feed themselves, to gain long-term economic advantage, to make money under the cover of war.<sup>46</sup> This aspect of war has been largely overlooked by today’s humanitarian agencies, and even by economists (who should have known better) in bilateral and multilateral aid agencies.

More recent research has attempted to rectify this problem. A World Bank study has found that among the characteristics of a country at risk of armed conflict are high levels of primary commodity dependence, geographic dispersion, ethnic concentration, low levels of educational achievement, slow economic growth and high population growth. More or fewer of these factors can be correlated with the likelihood of conflict. The World Bank analyzed 73 civil wars in 161 countries over a period of time, and found, for example, that a country with a primary commodity dependence of 26 per cent or more runs a 23 per cent higher risk of conflict than a

<sup>45</sup> See Huntington, Samuel P., *The Clash of Civilizations and the Remaking of World Order*, Simon and Schuster, New York, 1997, and Kaplan, Robert D., “The Coming Anarchy”, *Atlantic Monthly*, February 1994

<sup>46</sup> Keen, David, “A Rational Kind of Madness”, *Oxford Development Studies*, Vol. 25, No. 1, 1997

country that is in other ways “ordinary”.<sup>47</sup> By adding or subtracting other factors in the equation, conflict becomes more (or less) predictable. This is a bit like saying that there is a high correlation between automobile breakdown and the age of the vehicle, the amount of maintenance it has had, the skill of the driver, weather conditions, and how much fuel is in the tank.

This study has focused on the connection between one primary export commodity and conflict, and the distinction (or not) that can be made between opportunity and motive. In the case of a country with 26 per cent or higher dependence on diamonds, would diamonds represent an opportunity, or the motive? If the answer is opportunity, the implication is that diamonds must be both available and negotiable. Availability suggests monitoring and control weakness in producing countries; negotiability implies monitoring and control weakness in trading and consuming countries. The question thus becomes one of weighing opportunity and motivation, or as a recent study more graphically expresses it, of trying to distinguish between greed and grievance.<sup>48</sup>

Diamonds did not cause the wars in Angola, Sierra Leone or the DRC. Diamonds entered the story, in all three cases, after the conflict had begun. Grievance, however well or badly justified, was the motivator, and power was the goal. But diamonds became important to the funding, continuation, and depth of all three wars, and in the cases of Sierra Leone and Angola, they became essential. There are two parts to the idea of “essential”. The first is that by obtaining diamonds, combatants can pay for weapons, enrich themselves, and so on. The second is that by controlling the diamond areas, they can also deprive their opponents of revenues that might help it to prosecute the war.

In Sierra Leone, the mix of rebel motivations at the war’s outset had been transformed by the mid-1990s into a fixation on holding the diamond fields at all costs. Mentored by Charles Taylor, who had paid for much of his own Liberian rebellion through timber exports, the RUF leadership learned through ten years of war that power flows from access to resources, and with power, further resources become available. The RUF – apolitical, non-ethnic, and without territorial pretensions – was a new kind of rebel movement: “non-ideological, non-Clausewitzian, and non-revolutionary”, as one writer puts it.<sup>49</sup> The early grievances of disaffected youth

<sup>47</sup> Collier, Paul, “Economic Causes of Conflict and their Implications for Policy”, World Bank, June 2000, p. 6

<sup>48</sup> Berdal, Mats and Malone, David, *Greed and Grievance: Economic Agendas in Civil Wars*, Lynne Rienner, Boulder, 2000

<sup>49</sup> Malaquias, Assis, “Diamonds are a guerilla’s best friend: the impact of illicit wealth on insurgency strategy”, *Third World Quarterly*, Vol 22, No 3, 2001, p. 316

became little more than barbarous gangsterism, fuelled by personal ambition, drugs and diamonds, and characterized by the kidnapping of children and the murder of civilians.

In Angola, writes Tony Hodges, mineral wealth did not “cause” the conflict, but by the mid 1990s, with the end of the Cold War, things changed; primarily, the collapse of apartheid and the disappearance of powerful external backers for both UNITA and the government. Without external backers, UNITA *needed* diamonds. “There are no clear political or ideological differences between the two sides, at least since the MPLA’s abandonment of Marxism. It is difficult to avoid the conclusion that the conflict has become a raw struggle between rival elites for the control of the resources generated by oil and to a lesser extent by diamonds.”<sup>50</sup> And the UN Expert Panel on the DRC concluded that the conflict there had “become mainly about access, control and trade of five key mineral resources: coltan, diamonds, copper, cobalt and gold”. Minerals had become “the engine of the conflict in the Democratic Republic of Congo”.<sup>51</sup>

Sierra Leone and the DRC have for several years exhibited all the attributes of failed states, but for decades Mobutu Sese Seko and Siaka Stevens continued to rule their collapsing empires without significant challenge. In other words, the state did not “fail” in a thundering collapse. William Reno has explored this phenomenon – the mystery of seemingly unending “state decay” – and finds something else: a “predator state”. “Rulers of the ‘predator state’ develop dual interests; as their power appears to recede in the formal sphere of decaying bureaucracies, they increasingly use non-formal state power, including their capacity to intervene in informal markets to seek new opportunities and resources for clients.” Political power “migrates to new areas as inherited colonial institutions decay and the nation-state envisioned at independence fails to appear.”<sup>52</sup> Reno argues that Mobutu and Stevens gutted the formal state, emasculating its institutions and replacing them with personal control mechanisms, creating in the process, a “shadow state”. Eventually the clientelism and corruption through which they managed their affairs became so over-stretched that the shadow state itself collapsed in the face of relatively small rebel movements.<sup>53</sup>

<sup>50</sup> Hodges, Tony, *Angola from Afro-Stalinism to Perto-Diamond Capitalism*, James Currey, Oxford, 2001, p. 172

<sup>51</sup> UN Security Council Report S/2001/357, 12 April 2001, paras 213, 215

<sup>52</sup> Reno, William, *Corruption and State Politics in Sierra Leone*, Cambridge University Press, 1995, p. 19

<sup>53</sup> For more on this, see Le Billon, Philippe, “Fueling War or Buying Peace: The Role of Corruption in Conflicts”, WIDER, UN University, August 2001; and Bøås, Morten, “Liberia and Sierra Leone – Dead Ringers? The Logic of Neopatrimonial Rule” *Third World Quarterly*, Vol. 22, No. 5, 2001

Diamonds were at the heart of Siaka Stevens' ability to do this in Sierra Leone. Diamonds presented the opportunity for a personalized, corrupt form of government, but one that had, as its logical conclusion, a vulnerability to predators and an inability on the part of government to resist. Diamonds were a part of the same mix in Mobutu's Zaire. Laurent Kabila represented longstanding and legitimate grievances in Zaire, but he became what he beheld. RUF leader Foday Sankoh may have spoken the language of grievance in Sierra Leone, but his vicious war on innocent civilians sent a different message, and diamonds became the currency with which he bought his weapons. The Angolan war had its roots in an anti-colonial struggle and its continuation in the Cold War and the anti-apartheid movement. To what extent UNITA's grievances may have given way to greed may never be clear, but there is no dispute that diamonds have provided the opportunity for its continuation.

## 6.2 Lessons for Campaigners

This paper has been concerned primarily with the *opportunity* presented by diamonds, and therefore has placed an emphasis on the weakness in controls throughout the global mining, trading and marketing system. The experience of attempting to regulate conflict diamonds suggests a number of key lessons for campaigners on working to regulate commodities which fuel armed conflict.

There is a view that because diamonds are small, portable and valuable, they are inherently different from other commodities in the debate about funding conflict. This paper has argued that while these factors play an important role, a more significant element on the supply side is the accessibility of diamonds – a function of security failures, corruption, and in the most extreme cases, state collapse. On the demand side, secrecy, an absence of reliable trade and commercial data, and lack of governmental oversight are important factors in generating and nourishing the opportunity that has benefited rebel armies. Almost 70 per cent of the world's diamonds are mined in Africa, while 75 per cent are turned into jewellery that is consumed in Europe, Japan and the United States.

The problem of conflict diamonds is exacerbated by the larger problem of illicit diamonds. The fact that 20 per cent of the diamond industry is essentially crooked means that channels for the disposal of conflict diamonds had been established by illicit diamonds prior to the conflicts. Armed conflict and criminality converged, creating a more ready opportunity for the emergence of conflict diamonds than might be the case in other commodities.

UN embargoes, new national legislation and industry efforts to stop conflict diamonds have had little impact, except to change the routing and covers under



which conflict and illicit diamonds travel. The Kimberley Process was initiated on the premise that only a comprehensive international certification system could be expected to have any serious impact on the phenomenon. Such a system would include better control in diamond mining countries, clarity in procedures for shipping diamonds, and controls in trading and processing countries. These controls would have to be backed by an independent international monitoring system and an international database on trade and production. An effective international certification system, although explicitly aimed at conflict diamonds and at three African wars in particular, would also help to end the other illicit uses to which diamonds are put, including money laundering for tax evasion, and money laundering for other forms of evasion, such as that described by Wechsler and the *Washington Post*.

The Kimberley Process was able to convene 12 meetings on the subject of an international certification process because:

- by early 2000, the media publicity generated by NGOs on conflict diamonds was becoming a serious worry to the diamond industry and diamond producing countries;
- the brutality of Sierra Leone's RUF and its single-minded focus on diamonds helped bring the issue to wider media attention;
- the diamond industry decided to end its denial of the problem and to become engaged in trying to find solutions;
- one producing country (South Africa) championed the cause, and other producing countries (notably Namibia and Botswana) provided important backing. The UK and Belgium also played important roles in trying to advance the agenda;
- the kidnapping of 500 UN peacekeepers by the RUF in May 2000 threatened the entire peacekeeping operation and the viability of the UN as a peacekeeping organization; greater Security Council attention was given to diamonds in the wake of this event, and the creation of independent "Expert Panels" added to the evidence on conflict diamonds, as well as to the publicity;
- the United Nations General Assembly Resolution of December 2000 gave the Kimberley Process a *de jure* mandate, an agenda and a time frame.

The fact that the Kimberley Process sputtered and stalled through much of its deliberations reflects different levels of interest and commitment among the participants. The strength of the process was that it was inclusive. NGOs and senior industry executives attended all meetings, and were encouraged to participate as fully

as government representatives. There was no North-South divide: there were as many governments from developing countries as there were from the North. NGOs from Europe, North America and Africa participated; industry was represented by Americans, Europeans and Africans, including De Beers, Belgium's HRD and the Jewelers of America.

Shortcomings in the Kimberley Process may become more obvious with time and distance. The most apparent at present include:

- the ambivalence of key governments to the hoped-for outcome: Russian ambivalence seemed to revolve around a fundamental desire for secrecy, and apathy regarding the potential of market forces to damage what they regarded as a "strategic mineral". US ambivalence, somewhat resolved towards the end of the process, was for a time more damaging, but seemed as much a consequence of inertia and disinterest at high levels of government than anything else, the EC seemed as interested in asserting its authority over its member states as in solving the problems at hand;
- hesitancy on the part of industry: while industry representatives supported the Kimberley Process, the WDC resisted external monitoring of its proposed chain of warranties until near the end of the process. The US diamond lobby was ambivalent about proposals for US-specific legislation until late in that process;
- NGOs pulled their punches: out of deference to the importance of diamonds to jobs and the economies of several poor countries, NGOs never called for a consumer boycott, preferring to work inside the process rather than outside. They tempered to power of their media access with what they regarded as a responsibility to work with others on possible solutions. A louder, more militant campaign might have caused industry and governments to be more constructive and to treat the matter with greater urgency. Or it might not have.

As this paper was being completed in April 2002, the future remained unclear. Except for one thing, the proposed Kimberley system is a remarkable agreement, developed in a remarkably short space of time. Participating governments agreed to put new regulations and legislation in place so that the new global system could have an official launch, set for November 2002 at a ceremony in Switzerland. But without a credible and effective monitoring mechanism, the system remained seriously flawed. This issue will remain to haunt the Kimberley system until it is remedied. If a reminder of its importance was required, it could be found in the 2001 Belgian diamond import statistics, made available shortly after the Ottawa meeting. Rough diamonds worth more than \$17 million were imported from Uganda, Rwanda and Zambia in 2001, countries with no diamond resources of their own. More remarkably, \$224 million worth of diamonds were imported from Brazzaville, the capital

of another country - the Republic of the Congo - which has no diamonds. To think that such anomalies might repair themselves without an effective monitoring system is to live in dreamland.

## 6.3 Recommendations

- 1 If it is to be effective, the Kimberley Process must have a much stronger mechanism for monitoring national compliance with minimum standards. Without this, the entire system is pointless. In the past, too many governments have demonstrated their inability or unwillingness to curb conflict diamonds. Consumer confidence cannot be based on trust or on haphazard, minimal review mechanisms that have so far been agreed. Credible monitoring for compliance should be viewed as compulsory and desirable by any country wanting to demonstrate that its industry is conflict free.
- 2 The certification system should have more authority than can be derived from a voluntary arrangement that Kimberly process participants still refuse to call an agreement. It should have more authority than it will derive from a UN General Assembly resolution. Once it has been finalized, and once it has been debated by the General Assembly, it should be forwarded to the UN Security Council for endorsement and global application.

In the end, a global certification system will not stop diamond theft or conflict diamonds, any more than laws against stealing stop car theft. Laws, however, provide the basis for deterrence. The Kimberley process seeks to create common cause on the issue of conflict diamonds, to create transparency in an opaque industry, to create an audit trail and credible, effective international systems of inspection in both producing and importing countries. It seeks to identify and impose penalties on those who break sanctions and trade in stolen goods. The challenge is large; it is not only about the small proportion of the diamond trade related to conflict; it is about the much larger illicit trade that makes conflict diamonds possible. And it is not only about policing. In the longer run, good governance and economic development will be the key to reducing the grievance and the opportunity that have underpinned the wars in Angola, Sierra Leone and the Democratic Republic of Congo.

### **About the Author**

Ian Smillie is a development consultant and Research Coordinator for Partnership Africa Canada, an organization that has worked on the issue of conflict diamonds since 1999. He served as a member of the UN Security Council Expert Panel on Sierra Leone in 2000. He is the author of several books, including *Patronage or Partnership: Local Capacity Building in Humanitarian Crises* (Kumarian, 2001). He is an Associate of the Humanitarianism and War Project at Tufts University and an Adjunct Professor at Tulane University in New Orleans.

### **About Fafo and PICCR**

The Fafo Institute in Oslo conducts policy-related research at the international level, concentrating primarily on countries undergoing substantial structural change. Fafo's Programme for International Co-operation and Conflict Resolution (PICCR) is an umbrella programme for initiatives related to the policies and practices of international responses to armed conflict. In partnership with other non-governmental organisations, governments, and multilateral institutions, PICCR is actively engaged in efforts to understand and promote sustainable conflict resolution, effective multilateral co-operation and efficient international organisation. PICCR is involved in research and dialogue activities that encourage and support principles of multilateralism and international co-operation in general. Since its inception in 1998, PICCR has implemented a series of policy fora and research projects related to peace operations and international responses to civil wars. The honorary Chair of PICCR is Terje Rød-Larsen

## Annex 1 Major Events in the Campaign on Conflict Diamonds

| Date          | NGOs   | United Nations   | Industry  | Governments | Other Events  |
|---------------|--|--|---|-------------|---|
| June 1998     |  | UN Security Council embargoes Angolan diamonds except those accompanied by a government certificate                  |   |             |   |
| December 1998 | Global Witness (GW) publishes <i>A Rough Trade: The Role of Companies and Governments in the Angolan Conflict</i>                                    |  | De Beers halts purchasing of "outside diamonds", restricting purchases to joint ventures and its own mines. |             |   |
| January 1999  | GW gives UN Security Council an "unofficial" briefing on its Rough Trade report. This was reportedly the first SC briefing by an NGO on any subject. |  |   |             |   |
| May 1999      |  | UN Security Council appoints Panel of Experts to study Angolan sanctions busting under Chairmanship of Robert Fowler |   |             |   |
| October 1999  | Fatal Transactions coalition of 5 European NGOs formed   |  |   |             |   |
| November 1999 |  |  |   |             | Former President Nelson Mandela issues a statement via De Beers: "We would be concerned that an international campaign on these issues does not damage this vital industry. Rather than boycotts being instituted, it is preferable that through our own initiatives the industry takes a progressive stance on human rights issues." |
| January 2000  | Partnership Africa Canada publishes <i>The Heart of the Matter: Sierra Leone, Diamonds and Human Security</i>  |  |   |             | "Cry Freetown" shown widely on CNN and national networks; emphasizes diamonds in Sierra Leone   |

| Date       | NGOs   | United Nations  | Industry  | Governments  | Other Events  |
|------------|--|---|---|--|---|
| March 2000 |  | United Nations "Fowler Report," "names and shames" sitting heads of state for trafficking in arms to and diamonds from Angola   | Martin Rapaport publishes "Guilt Trip" in his widely-read diamond trade magazine, saying something must be done | USAID convenes industry meeting in Freetown to seek solutions to conflict diamond issue  |   |
| April 2000 |  | UN Security Council extends mandate of Angola Expert Panel  |   |  |   |
| May 2000   | US coalition of more than 100 NGOs and churches forms to fight conflict diamonds   | Peace agreement in Sierra Leone collapses; 500 UN peacekeepers kidnapped by RUF rebels, drawing greater public and Security Council attention to the issue of conflict diamonds |   | South African government convenes a meeting in Kimberley, of governments, industry and NGOs to discuss conflict diamonds. This is the first "Kimberley Process" meeting. US convenes first of 3 Congressional hearings on conflict diamonds; NGOs and industry testify | Kidnapping of 500 UN peacekeepers by RUF in Sierra Leone draws new attention to conflict diamonds   |
| June 2000  | Global Witness publishes <i>Conflict Diamonds: Possibilities for the Identification, Certification and Control of Diamonds</i> | UN Security Council appoints Panel of Experts on the Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo                            |   | Second Kimberley process Meeting in Luanda, Angola (all KP meetings except the 5th include governments, NGOs and industry representatives)   | World Bank becomes interested; Research Group issues "Economic Causes of Civil Conflict..." <i>Greed &amp; Grievance: Economic Agendas in Civil Wars published</i> . The issue develops an academic following |

| Date           | NGOs   | United Nations   | Industry  | Governments  | Other Events   |
|----------------|--|--|---|--|--|
| July 2000      |  | <p>UN Security Council bans all diamond exports from Sierra Leone until an acceptable export certificate has been developed.</p> <p>Security Council appoints Expert Panel on Sierra Leone</p> | <p>World Diamond Congress devotes most of its triennial meeting to the issue of conflict diamonds; creates World Diamond Council (WDC) to deal with the issue of conflict diamonds</p> <p>Belgium's HRD provides technical assistance to help Sierra Leone develop a certificate.</p> | <p>G8 Summit in Okinawa agrees to "implement measures to prevent conflict, including by addressing the issue of illicit trade in diamonds".</p> <p>DFID and USAID assist in development of Sierra Leone diamond certificate</p> <p>Third Kimberley process Meeting in London</p> | <p>Congressmen Tony Hall and Frank Wolf introduce the "CARAT Act" to ban conflict diamonds from the US; New Republic publishes "The Clinton Administration &amp; Betrayal in Sierra Leone"</p> |
| August 2000    |  | <p>UN Security Council holds a two-day open meeting on conflict diamonds</p>   | <p>Diamond bourses worldwide threaten to expel any member caught dealing in conflict diamonds</p>   |  | <p><i>Vanity Fair</i> publishes "The Terror of Sierra Leone" by Sebastian Junger; focus is on diamonds</p>   |
| September 2000 |  |  | <p>By mid-2000, all diamond trade publications feature the conflict diamond issue on a regular basis. WDC holds first meeting in Tel Aviv; NGOs participate.</p>  | <p>4th Kimberley Process Meeting in Pretoria, South Africa; Sierra Leone unveils new certification scheme</p>  |  |
| October 2000   | <p>Amnesty International and other NGOs demonstrate at Cartier's in New York</p> | <p>UN Security Council approves new Sierra Leone diamond export certificate and lifts ban</p>  |   | <p>Fifth Kimberley Meeting in London (NGOs excluded)</p>   |  |

| <b>Date</b>   | <b>NGOs</b>  | <b>United Nations</b>   | <b>Industry</b>  | <b>Governments</b>   | <b>Other Events</b>  |
|---------------|--|---|--|--|--|
| December 2000 |  | Sierra Leone Expert Panel Reports, finding major connections between diamonds and the on-going war; Angola Panel Reports; UN General Assembly mandates Kimberley process to develop an international certification system for rough diamonds and to report back within a year |  |  | CBS <i>60 Minutes</i> feature on conflict diamonds   |
| January 2001  |  |   | WDC Meets in London; presents draft legislation for a proposed new US bill on conflict diamonds. NGOs and governments participate. | White House meeting on "Technologies for Identification and Certification" of diamonds   |  |
| February 2001 | US NGOs demonstrate at Tiffany's on Valentine's Day; Amnesty Internet video released |   |  | Sixth Kimberley Process Meeting in Windhoek, Namibia   |  |
| March 2001    |  | UN Expert Panel on Liberia appointed  |  |  | Clean Diamond Bill introduced in US Congress by Tony Hall, Frank Wolf & Cynthia McKinney – has NGO backing |
| April 2001    | Partnership Africa Canada (PAC) begins publishing newsletter: <i>Other Facets</i>    | Angola Panel Extended for three months; DRC Panel Report reveals widespread diamond smuggling; Panel extended   |  | Seventh Kimberley process Meeting in Brussels; first working document on possible agreement; general agreement on the need for export certificates | "Conflict Diamond Bill" introduced to US Senate by Judd Gregg – has industry backing                       |



| <b>Date</b>    | <b>NGOs</b>   | <b>United Nations</b>  | <b>Industry</b>  | <b>Governments</b>  | <b>Other Events</b>   |
|----------------|---|--|--|---|---|
| May 2001       |   | Security Council sanction go into effect in Liberia: travel ban, weapons embargo and embargo on all diamond exports              |  |   | US NGOs & industry at loggerheads over different bills  |
| June 2001      | World Vision runs Martin Sheen promo for the Conflict Diamond Bill at the end of <i>The West Wing</i>             |  | HRD assists Guinea in development of new certification system                  | Guinea introduces new diamond certification system  | International Peace Academy launches major research program on Economic Agendas in Civil Wars |
| July 2001      |   |  |  | Eighth Kimberley Process Meeting in Moscow; general agreement on need for data base   | NBC <i>Dateline</i> feature on conflict diamonds  |
| August 2001    | Fatal Transactions releases study of EU controls: <i>Conflict Diamonds: Crossing European Borders?</i>            |  |  |   | Compromise on Hall/Gregg bill: "Clean Diamond Trade Act" proposed with NGO & industry backing |
| September 2001 | 181 NGOs worldwide sign a petition urging greater speed and accountability in the Kimberley Process               |  | WDC presents draft "Chain of Warranties Proposal"                              | Ninth Kimberley Process Meeting in London; EC problematic on jurisdictional issues in Europe  |   |
| October 2001   | PAC publishes <i>Destabilizing Guinea: Diamonds, Charles Taylor and the Potential for Wider Human Catastrophe</i> | UN Angola Panel Report confirms continued and extensive theft of Angolan diamonds by UNITA; Angola Panel extended for six months | WDC accepts need for external monitoring of its proposed "Chain of Warranties" | Tenth Kimberley Process Meeting in Luanda, Angola; US problematic on certificates, internal controls & secretariat; Russians on statistics; others resist external monitoring |   |

| Date          | NGOs  | United Nations  | Industry   | Governments   | Other Events  |
|---------------|---|---|--|---|---|
| November 2001 | Blistering op ed article by US NGO Physicians for Human Rights on US position in <i>Washington Post</i>                 | UN Liberia Expert Panel Report confirms that embargoes are still being broken; UN DRC Panel reiterates the prominent role of diamonds in DRC conflict | US industry pushes USG on its position re KP and Clean Diamond Trade Act                   | 11th Kimberley Process Meeting in Gaborone, Botswana. "Final" version of certification system agreed, with serious gaps. US administration weakens Clean Diamond Trade Bill; Bill passes House of Representatives 406-8             | <i>Washington Post</i> reveals al Qaeda connection in RUF diamond theft; Congressional sponsors of Clean Diamond Trade Act push USG |
| December 2001 | NGOs publicize reservations about the Kimberley document; US NGOs publicize reservations about Clean Diamond Trade Bill | Kimberley proposals miss agreed Dec 14th UN General Assembly agenda; postponed until March 2002   |  | Clean Diamond Trade Bill stalls in US Senate; fails to meet deadline before Christmas   |   |
| February 2002 |   | UNGA endorses Kimberley proposals   | World Diamond Council Meets in Milan to refine ideas about an industry chain of warranties |   |   |
| March 2002    | NGOs vow to continue working for regular independent monitoring mechanism   |   |  | US Senate introduces new legislation to replace previous bill. Kimberley Meeting in Ottawa resolves most outstanding issues except for a regular independent monitoring mechanism. System set for worldwide launch in November 2002 |   |