

Illicit Diamond Flows



PARTNERSHIP AFRICA CANADA

Kimberley Process

Note for Plenary

November 2007



global witness

Historically, there has always been a wide variety of illicit diamonds and diamond theft is common at all stages in the pipeline. Diamonds have also been used for a wide variety of illicit purposes, money laundering and tax evasion among the most prominent. The Kimberley Process (KP) was established to halt and prevent the phenomenon known as “conflict diamonds” and originally, there was no intention of going any further.

It became clear, however, soon after the start of KP discussions, that *all* rough diamonds would have to be included in the scheme, as one variation of covert activity could not be distinguished from another. This is why Brazil’s arrests last year and the charges laid in September this year against 14 individuals for KP fraud are so important to the Kimberley Process: diamonds from one type of unknown origin can easily be substituted for diamonds from another unknown origin. While the falsified Brazilian KP certificates may only have been covering illegal mining in Brazil, they could as easily have been covering conflict diamonds imported from another country.

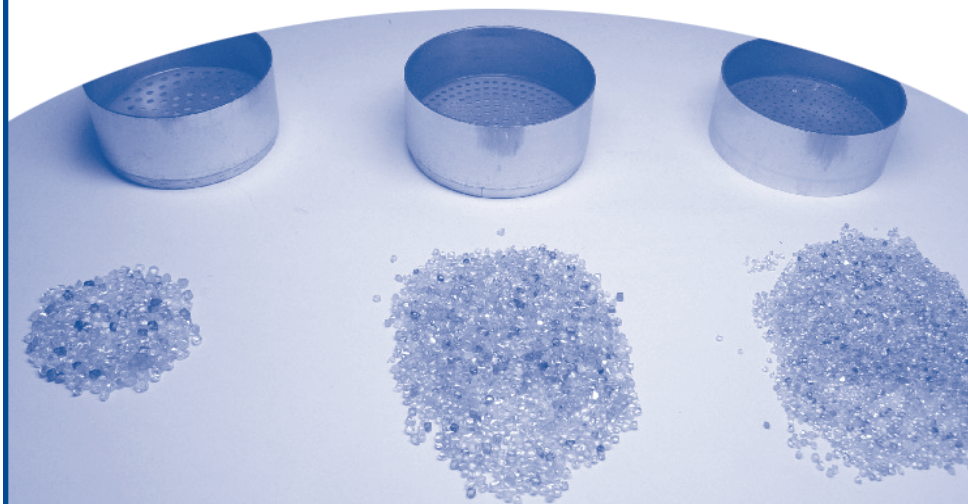


Photo: Shawn Blire

Loopholes in the system

It is now clear that there is an extensive trade in rough diamonds going on in parallel with the Kimberley Process. Some of this may be among countries that are not KP participants, but there is growing evidence that some KP members are involved in this trade.

- **Côte d'Ivoire:** Diamonds are being mined in rebel-held areas of Côte d'Ivoire and are being smuggled into the legitimate stream either through neighbouring KP Participants, or through countries further afield, despite a UN embargo on diamonds from Côte d'Ivoire being in place since December 2005;
- **Mexico:** Before joining the KPCS, Mexico was openly importing industrial diamonds, some of them allegedly from KP Participants;
- **Turkey:** Turkey, a non-participant until August 2007, had reported in its application that several KP Participants exported to Turkey in 2005, 2006 and 2007. As confirmed by Turkey twice, these were not classification errors. Efforts are being made to learn the identity of the exporters to Turkey;
- **United Arab Emirates:** Several reports from the UN Panel of Experts on Côte d'Ivoire have raised concerns that conflict diamonds may be entering the United Arab Emirates through the KP-certified trade. The Panel also reported in June 2007 that traders in Dubai had in their possession large quantities of rough diamonds of African origin with no KP certification;
- **Venezuela:** Significant amounts of diamonds are being mined in, and smuggled out of Venezuela. This has been well documented in a Partnership Africa Canada report; it is confirmed by the arrests of Venezuelan smugglers in Brazil and by recent journalistic reports from Venezuela. These diamonds, perhaps as much as 150,000 carats annually, are finding their way into the legitimate stream.



In addition to simply entering the KP system through a country with weak internal controls, one of the easiest ways to hide this illicit traffic is to take diamonds straight to a cutting and polishing factory, or in the case of industrial diamonds, straight to the end user. The cutting and polishing industry and users of industrial diamonds are not part of the KP chain; they do not report on their purchase of rough diamonds, and to our knowledge they are not monitored or audited by any KP Participant as part of its internal control system.

Currently, there is no requirement for participating countries to carry out spot checks of the diamond industry to verify compliance, an important measure to help prevent conflict diamonds from entering the legitimate trade. As a result, enforcement is spotty and inconsistent, leading to loopholes in the system and an illicit trade outside of the KP. The three year review of the Kimberley Process conducted in 2006 identified the need for more government oversight of the diamond industry as a priority that should be addressed this year. Furthermore, at the November 2006 KP Plenary, the Chair of the World Diamond Council stated :



Photo: James Nicholson

designed to stop them. None of these examples, therefore, is surprising in a general sense. In a more specific sense, however, all of these cases suggest that the internal controls in some KP participating countries are not working well enough. They also demonstrate that government oversight of the diamond industry is weak and enforcement measures to verify industry compliance are inadequate. The problem can no longer be disregarded as an occasional aberration. Without serious remedial action, the problem has the capacity to undermine and compromise the entire KPCS.

Recommendations to the Kimberley Process:

1. **Swift action in cases of significant problems.** The Kimberley Process never did act in the case of Brazil. It procrastinated over Côte d'Ivoire until it became a UN Security Council and media-driven problem. It has been unable to come to grips with the Venezuelan issue. Procrastination and inaction seriously damage KP effectiveness and credibility.

The KP has repeatedly failed to develop interim measures between outright expulsion and complete inaction. To respond more decisively to serious problems, the KP urgently requires a suspension mechanism that would temporarily suspend a country with significant compliance issues from the KP until the problem has been rectified. Clear criteria should be developed for invoking the suspension mechanism which should not require the participant to go through a full re-application process when the problem is solved.

2. **Increased government oversight of the diamond industry.** Stronger enforcement measures should form a basic part of each participant's internal controls and should be added to the KPCS minimum standards.

“ We call upon all Participating governments to increase their oversight of the System of Warranties, to check both periodically and on the basis of risk assessment that diamond companies are not only demanding and issuing the Warranties required within the Kimberley Process provisions, but also that the issue and receipt of such Warranties is being recorded and properly verified by the companies' external auditors... a credible, transparent and accountable Kimberley Process, accompanied by an effective and appropriately monitored System of Warranties is essential to the future of our industry and those economies and people who depend upon it. ”

To our knowledge, no steps have been taken by any Participant to act on this request, or on similar demands made by NGOs.

Conclusion

It is not unusual for those involved in illicit behaviour to seek and test alternative ways around the regulations and laws that have been

The Kimberley Process should require participating countries to demonstrate industry compliance by taking the following actions:

- require all diamond companies to keep records of trades and stocks, the system of warranties and to have these records independently audited;
- carry out periodic spot audits of companies trading in rough diamonds to verify and reconcile the records outlined above;
- carry out periodic spot checks of imports and exports of rough diamonds, which includes a procedure for weighing and valuing rough diamonds at key stages in the chain to verify compliance; and
- require polishing factories to keep statistical records of rough diamonds processed, cut and polished stones and the remaining and residual rough diamonds for exports; carry out periodic stock audits to verify and reconcile these records.

3. **A KP research and implementation capacity.** We have argued repeatedly that the KP needs a capacity to research issues related to better compli-

ance and to assist the Chair and Working Groups in improving compliance. This should not be an *ad hoc* arrangement left to NGOs, the media and others: it should be an organic part of making the KPCS an effective instrument for preventing conflict diamonds. Under the current system, there is no funding or capacity to proactively research and take action on problems identified through Kimberley Process review visits and annual reports, reports in the media and by NGOs. KP-sponsored research could be done in an objective, cost-effective and flexible manner, and could dramatically increase the effectiveness of the KP in recognizing and responding to problems and generally improving compliance.

4. **Efforts to combat cross border smuggling.** Kimberley Process participating countries should make much greater efforts to crack down on smuggling. More regional and global coordination is needed among law enforcement agencies to combat smuggling, and the legitimate industry must work much more proactively with intelligence units and government to provide information on illicit traders.

Background material

The Lost World: Diamond Mining and Smuggling in Venezuela
http://www.pacweb.org/e/images/stories//16_thelostworld_nov2006.pdf

The Failure of Good intentions: Fraud, Theft and Murder in the Brazilian Diamond Industry
http://www.pacweb.org/e/images/stories/brazil%20report%20_final_electronic%20version.pdf

Fugitives and Phantoms: The Diamond Exporters of Brazil
<http://www.pacweb.org/e/images/stories/documents/fugitives%20and%20phantoms-web-final.pdf>

Triple Jeopardy: Triplicate Forms and Triple Borders, Controlling Diamond Exports from Guyana
<http://www.pacweb.org/e/images/stories/documents/triple%20jeopardy%202005-04.pdf>

Making it Work: Why the Kimberley Process Must Do More to Stop Conflict Diamonds
http://www.globalwitness.org/media_library_detail.php/143/en/making_it_work_why_the_kimberley_process_must_do_m

An Independent Commissioned Review Evaluating the Effectiveness of the Kimberley Process
http://www.globalwitness.org/media_library_detail.php/150/en/an_independent_commissioned_review_evaluating_the_

Global Witness/ Amnesty International UK Diamond Retail Survey
http://www.globalwitness.org/media_library_detail.php/549/en/global_witness_amnesty_international_uk_diamond_re

Global Witness/ Amnesty International US Diamond Retail Survey
http://www.globalwitness.org/media_library_detail.php/519/en/global_witness_amnesty_international_us_diamond_re

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