
THE KEY TO KIMBERLEY: INTERNAL DIAMOND CONTROLS

GLOBAL WITNESS AND
PARTNERSHIP CANADA AFRICA

Introduction

'Conflict' or 'blood' diamonds fuel conflict, civil wars and human rights abuses. They have financed conflicts in Africa that have resulted in the deaths and displacement of millions of people. The mining and sale of conflict diamonds have had devastating impacts in Angola, Sierra Leone, Liberia and the Democratic Republic of the Congo. Rebel armies, warlords and unscrupulous diamond traders have exploited the small size and high value of diamonds, the lack of trade regulation and the ease with which diamonds can be obtained from alluvial mining areas, in deposits washed down into old river beds from kimberlite pipes (prehistoric volcanic pipes).

In October 2004 'The Key to Kimberley: Internal Diamond Controls' was released, a report prepared jointly by Global Witness and Partnership Africa Canada,¹ NGOs closely involved in the creation of the Kimberley Process diamond certification system. Leaders of the world's diamond industry and representatives of more than 40 countries gathered in Ottawa on 27 October for a three-day meeting to discuss progress in implementing the worldwide diamond control scheme which aims to stop the phenomenon of conflict diamonds.

'The Key to Kimberley: Internal Diamond Controls' examines the implementation of new control systems in Belgium, Britain, the United States, Canada, Angola, Ghana and the Democratic Republic of the Congo. The report recognises the strengths of the Belgian system if implemented fully, but is

critical of United States, British and Canadian regulations because of weak or non-existent government audits of companies dealing with diamonds. The report is more critical of controls in the Democratic Republic of the Congo and Angola, however, and recommends much tougher oversight if illicit diamonds are to be excluded from the legitimate diamond trade. Governmental controls at the point of export in these countries are in place, but there are almost no controls one or two transactions back into the system.

This report was well received by participants of the Kimberley Process, and a commitment was made to establish a group consisting of governments of alluvial diamond producing countries to try to address some of the difficulties involved in implementing a strong system of controls in these countries. This briefing is based on this report.

Internal Diamond Controls in the Kimberley Process Certification Scheme

The Kimberley Process Certification Scheme (KPCS) was negotiated by governments, civil society organisations and key institutions within the diamond trade in response to civil society campaigning against the trade in conflict diamonds. This international governmental certification scheme launched in January 2003 requires governments and the diamond industry to implement import/export control regimes on rough diamonds to prevent conflict diamonds from fuelling conflict and human rights abuses. The KPCS, a political agreement and currently has 60 countries as members, requires its participants to certify that shipments of rough diamonds are free from conflict diamonds. Countries that are members of the Kimberley Process and export rough diamonds have put in place domestic certification systems, and passed enabling legislation, with varying degrees of effectiveness.

To date, impressive efforts have been made by almost four dozen governments and their diamond industries to comply with the Kimberley Process Certification Scheme (KPCS) for rough diamonds. In Africa 15 countries are members. Authorities have been established, certificates printed and statistics gathered. Where the movement of diamonds is concerned, most of the emphasis has so far been placed on international transfers between countries: tamper-proof containers, forgery-resistant certificates and the compilation of data regarding shipments.

But the KP certificate is more than a physical description of what is in a parcel when it leaves one country and arrives in another. It *certifies* that the diamonds in each parcel are conflict-free. In order for a government to do this, it is required to 'establish a system of internal controls designed to eliminate the presence of conflict diamonds from shipments of rough diamonds imported into and exported from its territory'. Beyond this simple wording, however, the KPCS has little to say on this critical issue, leaving each participating country to devise its own system of internal controls. These have been referred to in some countries as 'chains of warranty', or 'chains of custody'. The World Diamond Council has issued a guide on how such chains might be handled by private sector companies, but their recommendations are voluntary, they are supplementary to the regulations of each participating country, and their writ has a limited reach, especially in diamond producing countries.

The KPCS is only as good as its ability to keep conflict diamonds out of the system. It is therefore important that the certificates be more than a system of registered letters between countries. They must be guarantees that the goods contained in shipments are clean. It is essential, therefore, that producing countries maintain systems that allow them to track diamonds back from the point of export to the place where they were mined, to ensure that no additional goods have been added

to the chain. Trading countries must be able to track diamonds back from the point of re-export to the point of import, in order to be confident that nothing has been added to the chain. Establishing and verifying an auditable trail is therefore the key to a successful certification system – the 'key to Kimberley'. A former member, the Republic of Congo, was expelled from the Kimberley Process in July 2004 for not complying with the provisions of the certification scheme. Its system of controls was inadequate, poorly enforced and therefore unable to prevent conflict diamonds from entering the legitimate diamond trade.

'The Key to Kimberley'

'The Key to Kimberley: Internal Diamond Controls' examines the implementation of new control systems in seven countries. Two of them are mainly producers of alluvial diamonds (the Democratic Republic of the Congo and Ghana); one has mixed alluvial and kimberlite production (Angola); one produces only from kimberlite mines but is also an importer (Canada), and three are trading countries (Belgium, the United States and Britain).

In each case the country in question has established elaborate systems, although these are implemented with varying degrees of effort. The most elaborate system is that of Belgium. Although still not fully operational, the Belgian diamond controls, supplemented by new anti-money laundering laws, could be a model for other trading countries, particularly as they have not imposed a huge burden on the industry. The American system is based largely on industry self-regulation, and offers another interesting model, although this report concludes that greater government oversight is required in order to provide confidence in the system's effectiveness. It is essentially a registered letter system, with little verification, so far, as to what is contained in the letters.

Global Witness and Partnership Africa Canada recommend that governments of all

countries that import and trade diamonds should conduct random independent inspections of diamond trading, importing and manufacturing companies to ensure their compliance with Kimberley Process standards. They should also require companies to develop management systems that ensure the effective operation of any self-regulation systems.

Best Practices and Ongoing Challenges in Africa

The most problematic area for internal controls, however, is found in countries where alluvial diamonds are produced by artisanal miners. Angola and the DRC are major artisanal alluvial producers and Ghana is a minor producer, but the problems are the same. In each country there is a good system for recording and formalising the diamond trade prior to export and systems exist for licensing dealers and recording transfers. But the trail runs cold one or two transactions further back along the chain. There are, in fact, no effective controls in these countries that would prevent conflict diamonds, smuggled diamonds, or any other extraneous diamonds from entering the system.

One example is that of the Democratic Republic of the Congo (DRC). The DRC is one of the world's biggest producers of diamonds by volume, and deposits can be found in every province. The vastness of the country, its 9,000km border with nine countries, its huge artisanal mining community, established smuggling networks and reliance on the informal economy all make its diamond industry difficult to control. The Centre of Evaluation, Expertise and Certification (CEEC) was set up to implement the Kimberley Process in the country. There are two industrial companies mining kimberlite pipes in the DRC, but many of the difficulties in controlling the industry are related to artisanal mining, a largely informal and unregulated activity which is notoriously hard to control. It is estimated

that 700,000 artisanal diamond miners operate in the DRC.

Artisanal miners sell diamonds to middlemen, who then sell to the licensed exporters (or *comptoirs*) in a pyramidal system. The CEEC supervises the work of the exporters as well as the export process, aiming to ensure that all parcels exported comply with the Kimberley Process, while the Ministry of Mines has oversight lower down the chain. All *comptoirs* must be licensed, and an official from the CEEC and the Ministry of Mines must be present during *comptoir* office hours, keeping records of all purchases. The *comptoir* must also keep its own records, although this is observed in varying degrees. All parcels of diamonds go through the CEEC prior to export where they are weighed and valued. Photographs of the goods taken before packing and sealing can be sent with the Kimberley Process certificate.

The Ministry of Mines has official oversight of the middlemen and the artisanal miners, all of whom are supposed to be licensed. Official statistics suggest that 100,000 middlemen work in the DRC, ranging from small village operations using matchsticks to weigh diamonds, to major players running large-scale buying operations. Currently only a fraction of middlemen have licenses, and few, if any, submit daily buying records as required by the law.

The new Mining Code provides for detailed regulation over artisanal mining, but of an estimated 500,000 artisanal miners in one major diamond mining province, only 2,000 to 3,000 are thought by Ministry of Mines officials to be registered. There are therefore an unknown number of people working in a completely unregulated environment. Despite attempts to allow mining only in certain areas, diamonds are mined artisanally along roads, in fields and forests in a manner that is extremely hard to regulate. Miners move frequently, and do not keep records of whom they sell to.

The *Service d'Assistance et d'Encadrement du Small Scale Mining* (SAESSCAM) is an

autonomous government body that aims to organise and assist the artisanal mining sector, creating cooperatives and providing training and small loans to artisanal miners. One of the main objectives is to track the flow of diamonds and to ensure that artisanal production is funnelled into the formal sector. This is a good example of a best practice, but it remains to be seen how this can be implemented effectively nationwide, considering the vast area and the numbers involved.

On paper the DRC has a relatively complete set of controls that allow it to check the chain of custody back through the system from each *comptoir*. In practice, however, given the lack of control at the middleman link of the chain, and the absence of much information about diggers, there is little knowledge of where the diamonds originate, or even, potentially, whether they were mined in the DRC, other than through physical identification of the stones. Although strong efforts are being made to improve the system, a lack of capacity and funds makes controls very hard to implement.

Recommendations and Actions

The lack of controls in countries with artisanal alluvial diamonds is an old problem. The geography and geology of alluvial diamonds and their value in relation to the poverty of the countries where they are found severely challenge the effective implementation of the KPCS. The problem is what made Angola, Sierra Leone and the DRC vulnerable to conflict diamonds in the first place. The lack of controls will maintain its potential for destabilisation in these countries, and in the diamond industry at large, until it is solved. Global Witness and Partnership Africa Canada recommend that producing countries agree on a standard export tax for rough diamonds to stem cross-border smuggling for tax evasion purposes and require all cash to be imported through the formal banking system, and for payments to be made through this banking system.

Global Witness and Partnership Africa Canada believe that problems in countries with artisanal alluvial diamonds need to be treated as development rather than regulatory issues: one with economics rather than police action as the solution. This is discussed in another report produced by Partnership Africa Canada and Global Witness: *Rich Man, Poor Man – Development Diamonds and Poverty Diamonds: The Potential for Change in the Artisanal Alluvial Diamond Fields of Africa*.

GLOBAL WITNESS is a non-governmental organisation that focuses on the links between environmental and human rights abuses, especially the impacts of natural resource exploitation upon countries and their people. It compiles information and evidence to be used in lobbying and to raise awareness. Its information is used to brief governments, inter-governmental organisations, NGOs and the media. It has no political affiliation.

PARTNERSHIP AFRICA CANADA (PAC) is a coalition of Canadian and African NGOs working together on issues of human rights, human security and sustainable development. In collaboration with its members and other organizations, PAC undertakes research and policy dialogue initiatives on issues affecting Africa.

Global Witness and Partnership Africa Canada were nominated for the 2003 Nobel Peace Prize for their work on conflict diamonds.

Endnote

¹To read and download a copy of this report in French or English, visit our websites, www.globalwitness.org/reports and www.pacweb.org