



World Diamond Council

WORLD DIAMOND COUNCIL 2ND ANNUAL MEETING

MILAN ~ MARCH 12 - 13, 2002

NGO COMMENTS: IAN SMILLIE

We would like to thank the WDC for inviting us to attend this meeting. While we feel that we have a *right* to participate in the Kimberley Process meetings, this meeting is yours. The invitation is a mark of the trust and confidence that we have developed in each other. If we disagree - on substance or on detail - we understand that we are on the same side in the fight against conflict diamonds. We would also like to thank the Government of South Africa for the important role it has played in championing the issue of conflict diamonds, on Abbey Chikane for his extremely able chairing of this difficult process.

We meet at a time of guarded optimism for those suffering from the wars in Sierra Leone and Angola. In Sierra Leone, peace has been declared and the state of emergency has been lifted. In Angola, the death of UNITA leader Jonas Savimbi offers hope that a negotiated settlement may now be possible. It is a time of optimism for those who have been dealing with the issue of conflict diamonds as well, because we are close to an agreement which could help to end the scourge for once and for all, ensuring that diamonds are no longer available for other rebels and other opportunists in the future.

But the wars in Africa are not over. Sierra Leone's diamonds are still being mined with impunity by the RUF - for personal gain, to fund their electoral ambitions and perhaps more. Liberia's warlord President Charles Taylor perfected the West African version of conflict diamonds. He remains in power and he remains a threat. The 27 year civil war in Angola will not end overnight, and the threat of conflict will remain as long as easy diamonds are available. The conflicts in and around the Congo are perhaps the most tragic in Africa because they seem so intractable and because so few outsiders seem to care about the half century of plunder and theft that have destroyed that country and more than two million lives.

The Kimberley Process, which is in the final stages of creating a global certification system for rough diamonds, can help to end this. It is a unique enterprise, befitting a unique industry. If it works as planned, it will become one of the first comprehensive trade arrangements to offer consumers real confidence in a product. This is something the industry will be able to take pride in - for this reason, but also because it will help to eliminate the possibility of further tragedies of the sort that have afflicted Angola, Sierra Leone and the DRC.

We know this issue has not been easy for the diamond industry. Some of the early debates and controversy seemed unfair to many. Even now, some doubt the need for

change, or the efficacy of what is being proposed. But the idea of an industry chain of warranties, proposed many months ago by the industry, has been a significant help in advancing the Kimberley process. The idea of external audits, difficult for many, has helped to create the confidence that some governments need in order to develop their own approach to the problem.

The NGOs involved in this issue understand how far the industry has moved, and we understand that while there may be a commercial imperative in this, the humanitarian imperative in the diamond industry is as great as it is anywhere else.

That, however, is the story so far. The colour, the clarity, the cut and the weight of the agreement we have so far negotiated is inadequate. A 'fairly good' agreement is not enough. It is perhaps worse than no agreement at all, because the last things we can afford are half measures, complacency and an expectation that things will somehow come right 'later'. Those who have attended the KP meetings know what the issues are:

- **Monitoring:** conflict diamonds are not a trade issue, they are a security and human rights issue. Monitoring cannot be left to chance, it cannot be an optional measure. It must be independent, impartial, expert and transparent. This does not mean it must include NGOs, but it has to be more than governments congratulating each other. It must be much more frank and much more critical than the level of discussion on such issues in the KP meetings themselves.

Why are some governments resisting this idea so strenuously? Is it out of some arcane principle that must be applied to diamonds, when international monitoring is widely accepted in other fields? Or is it because they have something to hide? Do they want to protect their secrets, or their industry? That is becoming the choice. Monitoring of national KP control systems is the primary issue for Ottawa, and within this, the way the industry chain of warranties works (if it is in place in a given country) must also be examined. For NGOs, this is an obvious necessity. It is not negotiable; it cannot be watered down or leavened with vague wording. We must be clear on this.

- **Statistics:** without good, timely, semi-annual comparable production and trade data, and without an ability to analyze and act on it, the KP will be nothing; the monitoring will be nothing. The intransigence of some governments on this issue will kill the Kimberley Process.

- **Coordination:** the analysis of data relates to the issue of coordination and the need for a secretariat. Some KP participants have said that we should define the role of a secretariat before we create it. And yet in a dozen meetings we have devoted no time to that task whatsoever. Here is an attempt: a secretariat is needed to coordinate annual and other meetings of the KP; it will gather, analyze and disseminate production and trade data; it will flag issues and areas of possible concern; it will organize and support review missions; it will undertake other tasks as mandated by the KP, in accordance with the minimum standards agreed by the KP. The real issue is not the definition of its tasks, or even the cost (see below); it is a fear that this extra-

governmental body, unmandated by a higher authority (see also below), could in some way impinge on national sovereignty.

- **International instrument:** let us be clear, therefore, on the authority of the Kimberley Process. This has so far derived from voluntary participation, a UN General Assembly resolution, and related Security Council decisions. This is not good enough. If the KP is to have teeth, it must have a legitimizing mandate that goes beyond the wording of the thing we are not even allowed to call an agreement. Those who believe that the exercise is worthwhile, those who want to halt the trade in conflict diamonds, must stop equivocating on this issue and insist that the ultimate mandate for the KP must be the UN Security Council. Without the highest authority, the KP system will be a source of derision for those it intends to stop, and a cruel joke for those it intends to help.

- **The WTO:** should the KP be open, or restricted? Will it attract challenges? Will it survive a challenge? Should there be a waiver? This issue, late to the table, has become a proxy battle for a variety of issues, some of which are becoming clear, some of which are not. The WTO does not condone theft, war, smuggling or sanction-busting. The WTO provides for exceptions based on the protection of human life and health (XXb) and ‘essential security interests’ (XXI). The WTO can be persuaded, if persuasion is necessary, that diamonds are a case for special attention. It can be persuaded by the P5 and the major diamond producers and traders—all of whom are KP participants—that the KP system must have built-in deterrents to halt the traffic in diamonds from countries that do not comply with the minimum standards. The WTO should be an ally in this arrangement. It is disgraceful to keep using it as an excuse for inaction, and as a proxy for other battles.

- **Who will pay?** Countries that reap taxes and employment from an industry at risk deserve only contempt for stinginess. This is an industry that is almost completely unregulated. Pharmaceuticals, alcohol, tobacco, gold, silver, even children’s toys are better regulated than the international diamond industry. Governments must start taking responsibility for this. And so must the industry. A one percent tax levied on the value of all certified diamond parcels would yield \$70 million in a year. This is ten times, if not 100 times what a small secretariat would cost. For the sake of argument, let us suggest a fee of one half of one percent on the value of all certified parcels moving internationally. The taxes on airline tickets are higher. ‘*We operate on small margins!*’ is now a chorus we have come to expect from the industry, whenever the issue of cost arises. Diamonds are a luxury commodity. They are expensive. Consumers will more than understand - if they even notice - why a \$5000 diamond now costs five or ten dollars more - roughly what such a levy would represent in a polished diamond.

We had great hope that the UN General Assembly resolution would help move the issue forward. That hope has now been dashed. The original version, sent by the KP Secretariat in February, contained the following:

[The UNGA] Encourages the Kimberley process to resolve outstanding issues including verification measures, administrative considerations and the nature of a possible international instrument covering the certification scheme.

This has now been reduced to, *Encourages the Kimberly Process to resolve outstanding issues.*

We are not, it seems, permitted to say what the outstanding issues are, and there is obviously strong support for the feeling that we should not be encouraged to resolve them. This bodes very badly for the forthcoming Kimberley Process meeting in Ottawa.

NGOs in North America are also concerned about bad vibrations from Europe. There is much talk about a new system of controls for diamonds within the European Union. We will applaud this when we see it, if it is effective. But nothing must be done to dismantle existing national control systems before the new systems are approved and installed. It would be a strange irony and a travesty of the fight against conflict diamonds if any existing control measures were reduced before others are in place.

The time for debate is over. NGOs have attended more than a dozen Kimberley Process meetings and WDC events in good faith. We have never called for a boycott; we have not played the 'globalization/global injustice' card; we have tried to work constructively with you, as you have with us. We have learned about the positive side of the diamond industry and we can understand why it means so much to so many people. But we see the dark side as well. We see the continued massive traffic in diamonds from countries that have none: Congo Brazzaville, Gambia, Zambia, Rwanda, Uganda. We see huge surpluses of exports over known production capacities from Ivory Coast, Guinea, Central African Republic. We hear the same hair-raising diamond stories you hear when we walk the streets of Kimberley, Luanda, Windhoek, Kisangani and Freetown. And many of us work - as you do not - in the refugee camps, the rehabilitation centres and the amputee wards of Angola, Sierra Leone and the Congo.

We are not going to play this game anymore. We demand that it end. We demand that governments at the Kimberley Meeting in Ottawa take responsibility for the things under their control. But this is not our issue or theirs alone. This is the diamond industry's issue. *All* of it. We do not want a repeat of the Botswana meeting, where NGOs alone spoke about the need for credible monitoring, good statistics and real deterrents. We want and expect the WDC to stand with us on these issues; as an active participant, not as a spectator. The WDC can and should lead on these issues. We know you can't do it alone, and neither can we. You have everything to gain from joining us and doing what you can to end this business for once and for all. And the diamond industry has everything to lose if you don't. And so do the people of Angola, Sierra Leone and the Congo.