



World Diamond Council

WORLD DIAMOND COUNCIL 2ND ANNUAL MEETING MILAN ~ MARCH 12 - 13, 2002

U. S. LEGISLATIVE REPORT: MATTHEW A. RUNCI

Summary

While the significance of the WDC legislative achievement of 2001 stands, the US House of Representatives' adoption of HR 2722 last November must be matched by a companion step on comparable legislation in the US Senate this year in order for any differences between the two versions to be resolved in conference before the end of the year. If the Senate fails to act, or if House-Senate conferees cannot agree on one version, or if the President does not sign the legislation into law, once Congress adjourns the legislative process must start from the beginning all over again when a new Congress is seated in 2003 after the mid-term elections. Thus, in 2002 the industry must continue its lobbying effort, focusing on the Senate (in particular the offices of Senators Durbin, Feingold, DeWine, and Gregg, original co-sponsors of S 1084), and on the Bush administration (in particular Treasury, State, the US Trade Representative, and the White House), in order to maximize the likelihood of succeeding with its legislative program on conflict diamonds before the current legislative year expires. At this time 78 legislative days remain in the session.

In Congress...

...there has been no forward movement since action by the House last November. The Ways & Means Committee leadership remains resistant to any bill stronger than the one voted on at the end of the last session.

In the Senate, the Durbin-DeWine-Feingold-Gregg group will not act on the House-approved version. Rather Senator Durbin's office has advised it is about to draft a new bill. While no specific information is available as yet on its contours, it is reasonable to think that this measure may attempt to find a middle ground between the final version of the House bill* and last June's Senate proposal**. Highlights of both versions may be found in the Appendix attached to this report.

The prospect of a new bill raises a variety of considerations, some of them negative. For instance, it could serve as an excuse for continued trumpeting of the kind of rhetoric heard at the recent Senate Governmental Affairs Committee hearing***, where the bin Laden issue was heavily stressed. But a new Senate bill can also be a positive opportunity—assuming its contents are workable—by giving the industry and the NGO community a renewed common cause. This is important because the NGO community both in the US and internationally has been increasingly of late restive because it views the Bush administration as a quasi-adversary and believes that the WDC has lapsed into passivity where the Kimberley Process is concerned.

The news media scene...

...in the US has gone almost totally negative since mid-fall because of *The Washington Post's* al-Qaeda stories, *The Wall Street Journal's* tanzanite articles, and the fact that interested members of the House and Senate have chosen to echo those assertions as established fact***. The most recent *Post* story, on Feb. 26, underscores what is happening. Namely: the old conflict diamond problem, the diamond-terrorist link, and tanzanite are becoming co-mingled to a frightening degree. The tanzanite lawsuit, however spurious in substantive terms, attracts additional coverage. The Victor Bout angle, about which we'll probably hear more -- serves as cord for this noxious package. Robert Block of *The Wall Street Journal* is currently working on a story that ties these elements together by depicting the overall vulnerability of the gemstone trade (i.e., both diamonds and colored stones) to exploitation by criminal elements, including terrorists.

The present media situation offers very limited openings for significant proactive PR efforts. The central problem is that just about everyone in the media who pays attention to diamonds or tanzanite finds the terrorist link irresistible. In short, the Post-Journal assertions are pretty much accepted as accurate. The State Department's no-current-evidence line is of some limited use re: tanzanite, while the latest construct concerning diamonds is of barely marginal utility in PR terms.

A new (or renewed) legislative drive would provide grounds for becoming more active concerning diamonds-cum-terrorism. One strong line, for instance, would be that effective U.S. legislation is necessary both to solve the "old" conflict diamond problem and prevent possible exploitation by terrorist groups. And if the administration continues to be evasive on legislation, that fact deserves to be publicized.

Our next phase...

...starts where the current action is, in the Senate. We are exploring the degree of cooperation possible concerning the prospective new Durbin bill. At minimum, we have already signalled our determination to be helpful and our desire to have input. Obviously we cannot provide assurance of support until we know at least the main content. But it is logical to assume that the bill will strongly resemble the version that the industry fully supported last June and thus that we will be able to support it enthusiastically.

Once we are comfortable on that score, WDC should mount a new lobbying effort aimed primarily at the administration. It was the administration that caused the House bill to be diluted last fall. And under present circumstances the administration would probably work against passage of a new Senate bill, since it vastly prefers a more straightforward legislative approach through Kimberley-implementing legislation instead. So this obstacle must be overcome.

To achieve at least a degree of compromise, some reinforcements will be very helpful. That is, in addition to those long active on the front lines, we should recruit heavyweight representatives of several leading retailers and diamond firms to do

some face-to-face sales work at appropriate agencies in Washington. Specific targets would be at higher levels at State, USTR, and the White House.

The exact lobbying pitch will have to be worked out. But it is likely that compromise on a handful of items would likely establish the basis of a new consensus between industry, the principal Senators involved and NGO representatives. Even if agreement among all parties eludes us in the end despite the strongest effort possible, the fact that we undertook the effort would be a strong reminder that we take the alliance seriously. Such a reminder has considerable value of its own. Once this effort is in train, it would be realistic to seek media attention, using op-eds and perhaps a modicum of advertising in Capitol Hill periodicals, as was done effectively last year in connection with HR 2722.

Similarly, the WDC should ratchet up efforts to secure a more effective outcome to the Kimberley Process. As with the domestic legislative issue, the strengthening required isn't necessarily wholesale. A handful of adjustments would probably suffice, adding considerable heft to the argument that the excellent cannot be allowed to be enemy of the good. A constructive effort will be required to get NGO signoff on "good."

There is a double missionary job to be done here. The WDC must recognize that the terrorism factor has raised the stakes in the U.S. and that this new dimension of our old problem isn't going to go away very soon. Therefore the fact that peace seems to have come to Sierra Leone, or that Joseph Savimbi has been eliminated, or that Charles Taylor may soon be overthrown, does not promise relief. The WDC, in turn, needs to convey that same reality to Kimberley Process participants. If the U.S. retail market is damaged, many parties in several countries will feel the pain. They need to look no further than Tanzania to get a simple math lesson. U.S. pressure on the overseas players should not be kept a secret from the media, starting with the trade press.

APPENDIX

LEGISLATION

BILL NUMBER:	H.R. 2722*
Title:	Conflict Diamonds Act of 2001
Introduced:	Representatives Amo Houghton, Tony Hall and Frank Wolf
Last Action:	11/30/2001 Read the second time. Placed on Senate Legislative Calendar
Summation:	Authorizes the President to prohibit imports of rough diamonds (with specified exceptions) into the United States from any country that does not take certain measures to stop trade in conflict diamonds; Authorizes the President to prohibit specific entries of polished diamonds and jewelry containing diamonds if the President has credible evidence that such polished diamonds and jewelry were produced with conflict diamonds;

Sets forth both civil and criminal penalties for the import of prohibited diamonds and jewelry into the United States;

Requires the President to report to Congress with respect to those countries that are involved in the export of conflict diamonds to the United States;

Requires the Comptroller General of the United States to report to Congress on the effectiveness of the provisions of the Act in preventing the importation of conflict diamonds into the United States;

Expresses the sense of Congress that:

- (a) *the President should take the necessary steps to negotiate an international agreement to eliminate the trade in conflict diamonds and seek UN Security Council Resolutions for countries that are involved in conflicts linked to rough diamonds;*
- (b) *the provisions of the Act should not impede the trade in legitimate diamonds with countries that are working to eliminate trade in conflict diamonds, including through the negotiation of an effective international agreement to eliminate trade in conflict diamonds; and*
- (c) *companies involved in diamond extraction and trade should make financial contributions to countries seeking to implement measures to stop trade in conflict diamonds if such countries would have financial difficulty implementing such measures; and, authorizes appropriations.*

Comments/Issues: Includes the following concessions made by the
Administration: § Making the system of controls mandatory;
§ Including a provision on polished diamonds and jewelry (The Administration ruled out a comprehensive provision for three reasons:
1) because polished diamonds and jewelry are excluded from the initiative being devised through the Kimberley Process;
2) because such a provision could leave the law vulnerable to a challenge at the WTO; and,
3) because of concerns about harming the legitimate trade by action on a product several steps removed from conflict diamonds' trade.
§ Making the law effective immediately;
§ Narrowing the President's discretion to avoid action (The Administration remains adamant that the President must have discretion in determining when and whether to bar a country's rough diamond exports to the United States. However, it made

four concessions: (1) it broadened his scope of action, which originally was narrowly focused on implementing UN Security Council resolutions; (2) it slightly narrowed his discretion, so that he may act even when that is not in our national security interest - so long as it is pursuant to UN Security Council resolutions; (3) it agreed to submitting a twice-yearly name-and-shame report to Congress listing countries that don't have systems of controls but have not been sanctioned. This is designed to encourage the President to sanction these countries - and increase pressure on the shamed countries to implement systems; and (4) it consented that the legislation take effect immediately, rather than waiting for six months as HR 2722's automatic trigger of sanctions provided.

§ Adding extensive reporting requirements; and

§ Adding an authorization in FY 03 to help poor countries implement systems of control in FY03

BILL NUMBER:	S. 1084
Title:	Clean Diamonds Act of 2001
Introduced:	Senator Richard Durbin
Last Action:	6/21/2001 Referred to Senate Committee on Finance
Summation:	Prohibits the importation of rough diamonds into the United States unless the exporting country is implementing:
requirements, Assembly 1, 2000, or which States	(1) a system of controls on the export or import of rough diamonds that meets specified consistent with United Nations General Resolution 55/56 adopted on December consistent with an international agreement requires such controls and to which the United is a party; or
(including States unless	(2) a system of controls that is functionally equivalent.
export system import	Prohibits the importation of polished diamonds jewelry containing diamonds into the United the exporting country:
	(1) is implementing a system of controls on the and import of rough diamonds, except such shall not be required for countries that do not rough diamonds; and
	(2) requires that its own imports of diamonds originate from countries that have implemented a system of controls on the export and import of rough diamonds.
Corporation and from engaging in a project involving the	Prohibits the Overseas Private Investment the Export-Import Bank of the United States certain transactions in connection with mining, polishing or other processing, or

sale of diamonds in a
requirements of the Act.

country that fails to meet the

agreement
conflict in the
mined.

Urges the President to negotiate an international
to eliminate trade in diamonds used to support
country or regions in which such diamonds are

Recent Legislative Activity/Hearings re: Conflict Diamonds

Senate Government Oversight Subcommittee Hearing***

Chairman Richard Durbin

February 13, 2002

Two principal topics below:

- (1) GAO's negative analysis of KP and
- (2) the terrorist connection.

GAO & the Kimberley Process

Purpose: to highlight the newly completed GAO report on KP and to gain some visibility for the bill. (This subcommittee, however, lacks primary jurisdiction over the bill so in that sense it was a show event rather than a substantive proceeding.)

The 17-page GAO document now in general circulation is low-key and heavy with technical details but its bottom line is clear enough: that KP's plan, as it stands, falls short of what's needed to control conflict diamonds in a credible fashion.

It says that KP lacks critical "elements of accountability," relies too heavily on recommended and voluntary measures rather than hard mandates, and fails to monitor to the degree necessary the movement of rough between extraction and first export. "These and other shortcomings," the GAO says, "provide significant challenges in creating an effective scheme to deter trade in conflict diamonds."

How much media coverage this criticism will get immediately is uncertain. No major publications and no TV outlets were represented during the hearing's first 90 minutes, though GAO and/or members of Congress will doubtless circulate the report to those reporters following the issue. Over time, as KP goes through its next phase, it's likely that the better informed reporters will use this GAO take to challenge KP's efficacy—unless, of course, some of the provisions are strengthened (although highly unlikely).

To the extent WDC and others hang their hats on Kimberley, we will have to take into account this negative analysis. And NGO's can use this document as evidence to substantiate any concerns, as GAO has a high degree of credibility among Washington-based media.

The Terrorist Connection

Little that could be considered substantively new was said regarding diamonds and al-Qaeda. However, it was mentioned repeatedly by Senators present (and in the prepared Hall-Wolf statement) and the general impression conveyed is that the link exists, even if hard evidence of it isn't yet in the public domain. The Hall-Wolf piece

even suggested that the Bush administration is squelching the evidence either because of internal fumbling or because of a desire to protect intelligence sources.

Former Ambassador Joseph Melrose said there's no question that the RUF has dealt diamonds to al Qaeda; the only question is whether RUF did so knowingly. Judd Gregg said: "There is a growing body of evidence linking Osama bin Laden's terror network and conflict diamonds. This link has elevated the issue of conflict diamonds from one of humanitarian concern to one of national security concern." Gregg didn't describe that "growing body of evidence."

Durbin, DeWine, and Feingold each made statements along the same line, with varying emphasis. Alan Eastham discussed the Administration's continued efforts to nail down the terrorist connection, leaving the implication that there's more here than State has so far disclosed.

The implication for us going forward is that the terrorist drumbeat will continue, perhaps at a higher decibel level. Today the industry came in for relatively little overt criticism, though some statements implied that the industry still isn't doing enough.