

EU Control of Diamond Imports from African Countries in Conflict

Report of the European Union Expert Meeting,
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1 Introduction

On 25 September, at the invitation of Max van den Berg, MEP, (PES), Fatal Transactions, OXFAM International, Brussels and the Netherlands Institute for Southern Africa, all active in the Fatal Transactions campaign, more than 50 'experts', people in one way or another involved or active in the diamond trade, gathered to discuss the issue of conflict diamonds, and ways to address their control. Among the experts were Members of the European Parliament, national politicians, representatives of government ministries of various countries, representatives from the diamond trade, researchers and NGO's. They discussed the role of the European Union and its member states in the struggle against conflict diamonds; diamonds that finance bloody wars in Africa. Despite differences of opinion between the various participants the meeting was fruitful. In a lively and constructive debate the main findings of the report *Conflict diamonds crossing European borders; a case study of Belgium, the UK and the Netherlands*, were discussed.

By the time of writing (early November, 2001), the latest round of the Kimberley process in Luanda, Angola has just finished. We were very pleased to see that this time the European Commission did have a formal mandate from the EU's Council of Ministers to negotiate, and did so.

The results so far look positive. The round of talks in Lusaka concluded with agreement on a certification scheme to ensure that exported diamonds carry proof that they come only from legitimate sources. This is expected to be officially concluded at the ministerial meeting in Gaborone at the end of November 2001. It is highly likely that a formal certification scheme will be presented to the General Assembly of the United Nations in December 2001. This is a positive sign. The international community has proved once more its commitment to end the trade in conflict diamonds.

However, there still remains a lot to be done: for the NGO's, for individual countries, and for the European Union. During the expert meeting, a few issues in particular were emphasised:

- It is clear that the external borders of the EU are not currently protected at all against imports of conflict diamonds. Some of the EU countries clearly lack the resources and expertise to carry out fully UN resolutions. Although Belgium has a full certification system in place, controls in the United Kingdom and the Netherlands are weak. And although Belgium has excellent controls for diamonds imported from Liberia, Angola and Sierra Leone, there are other countries that neighbour these conflict zones and that are subject to hardly any controls.. These so-called 'sensitive countries' deserve special attention. This is why the industry and the countries alike need to strive for the control of the influx of diamonds from mine to exporter, the so-called chain of warranties. The European Parliament in particular can play a role in this, putting pressure on the Commission and Council of Ministers, as well as the industry, obliging companies to live up to their promises of corporate social responsibility.
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- With regard to corporate social responsibility, the lack of trade figures needs to be stressed. There is great lack of openness in publishing trade statistics by various EU member states. The statistics that have been published suffer from irregularities. The European Union and the individual countries should build the capacity to analyse these trade statistics and commit themselves to the publication of standardised import and export figures. There is a need for careful and independent monitoring of, for example, production statistics, to keep a check on anomalies that might indicate that a country is exporting diamonds mined elsewhere.
- It remains a challenge to the EU to, on the one hand, control its external borders effectively and, at the same time, to maintain internal free trade. The established free trade provisions of the EU undermine the inspection of all movements of rough diamonds among member states. What will it mean for Belgium? Will the Belgian government, for example, have to lower its standards of control because they do not comply with the constitutional right of free movement of goods within Europe? ? Will implementation of the Kimberley process by the EU and its member states require huge investment in personnel and material? What about those member states that have not been part of the Kimberley Process – will they seek to slow implementation in Europe once it starts? What kind of implications will the events of 11 September, and the apparent ties between Osama's Bin Laden's Al Qaeda and the diamond trade, have?

What became clear out of this meeting is that most players in the diamond field have so far not realised sufficiently what the existence of the European single market signifies for the control of imports of conflict diamonds to, and in between, the EU member states. We hope that this meeting has added to the understanding of what the European institutions can bring with regard to the certification of diamonds. After all we all stand for the same challenge: breaking the link between the trade in diamonds and the perpetuation of violent conflicts in Africa.

A lot of questions are still to be answered. We will closely follow the process during the coming months. And we hereby announce that there will be a follow up of this Expert meeting in February, to discuss our position and to decide about future policy.

Amsterdam, November 12, 2001

Kirsten Hund, national co-ordinator Fatal Transactions, NiZA, The Netherlands

David Earnshaw, Oxfam International, Belgium.

Judith Sargentini, international campaign co-ordinator Fatal Transactions.

2 EU Control of Diamond Imports from African Countries in Conflict

2.1 Welcoming speech

By Max van den Berg

As the vice chair of the EU development committee, I would like to welcome all of you. I am happy to see so many representatives of politics, industry and the NGO world here.

Let's start by saying that the incidents of September the 11th should not be abused. What happened, happened in itself and as such the disaster deserves a response in itself. Nevertheless, it is clear that illegal trade, in for example diamonds, can fuel local conflicts.

Most of us are aware of the fact that there are more than a hundred conflicts all over the world, mostly involving civilians, as victims. We are quite aware that we are living in a global village, aware of the interdependence, conscious of the fact that we can't de-link in this world and aware that what happens in one place will have huge effects on other places.

If I would have said those words before September 11th, I would not have been so much aware of their full and strong meaning, but they were and still are true. It is important to know our responsibilities, as the European Union as well as individual member states, being part of the international community.

For many people the direct relation between diamonds and those conflicts is unclear. But when you explain to them the type of conflicts in the different regions, the deconstruction of states, the stories of warlords, the illegal mining, then you have their attention. Most people must have heard about the conflicts in Angola, where Oxfam recently wrote a report about '*Stories of war and neglect*'.

Most of us here are aware of the fact that part of the revenue of the oil winning in Angola is used for private kickbacks or for fuelling the war. And, if we make a plea for peace in Angola we are confronted with the UN sanctions, with UNITA and the official government, but we are also confronted with the mere fact that 'business as usual' brings money in. Without that money it would not be that easy to fund very costly conflicts. Of course a lot of us here present would argue it would be wonderful if we could use that money for basic health and education for the Angolan people. But that is not the practice of today. Unfortunately the same is true for Sudan and other areas.

The negative impact of natural resources, in a broader sense, depends on the way it is managed, the way it is used, or misused. The trade need not always be illegal or damaging. However, as long as part of it is, it is clear that the international community does have a responsibility in this field.

President Bush has declared that he wanted a total financial attack on those who, direct or indirect, finance terrorists. He has a list of names of those that are suspected of financing terrorist sectors. I would be happy if we, as part of the world community,

would be able to expand that list to those who are fuelling, with their business or trade and other activities, these conflicts. Considering the global village we live in, we can't maintain double standards. Everybody needs to be held accountable for the direct or indirect consequences of his deeds.

I hope that in today's climate there will be more opportunity to take these conflicts seriously, even though they are further away from Europe, even though people have the feeling that it is too difficult to do anything about it, and that anyway it won't affect them directly. It will hit us, because we are all living in the same world.

In this respect it is of high interest to take International Law and Universal Human Rights standards, including the various UN sanctions, UN systems and UN conventions very seriously. The moment you start to play around with these standards, you act in a very irresponsible way. I hope we will enter a period now where these international, individual and shared responsibilities will be at the highest stake.

Not everybody agrees about the amount of rough diamonds coming from the conflict regions in Africa, estimates rate from 3 to 15% of the total diamond trade.

But 3 to 15 % is a serious amount, without doubts experts will come back to this during the debate. It makes us proud that representatives of so many countries, be it from the government, the Commission or the NGO world, took the whole problem so seriously. And that you were successful with the UN report and conclusion to get serious UN Resolutions, so that we, in Europe as well, can act upon these serious conclusions. The European Commission feels that funding research is a very good way of spending part of the budget, it gives direct results in reports like this one from Fatal Transactions. We need to build our knowledge and expertise but we have to be pragmatic and not lose ourselves in nitty-gritty details and forgetting our main goal.

The European Union as a market should try to work out an effective control mechanism to deal with the issue of conflict diamonds. I think that should also be goal of this meeting of experts. People that import or export diamonds, it doesn't matter where, should fulfil the plate, member states should make sure that there is a minimum package of demands to check this trade.

That minimum package of demands should be taken very serious. If one of the countries would not be able to deliver an efficient control mechanism, it would be an option to transfer the trade to Belgium and have the diamonds enter there

I received a phone call from the Dutch State Secretary responsible for Customs.

He had read the report, and felt that maybe some of the criticisms towards the Dutch service were 'correct'. But he also said that basically we share the same fight.

Although only a small percentage of the diamond trade goes through the Netherlands, the Netherlands do feel responsible and we have to deal with the UN Conclusions. He would like to speak with representatives of Fatal Transactions to see how things can be improved. I was pleased that he reacted, it shows that we are not enemies, but friends that really want to get something done.

It is not about blaming people but to strive for results. So seeing the amount of experts present here I really hope that at the end of the meeting, we are, as the European Parliament and Commission able to 'make' conclusion of where we have to act to be effective.

There will be a new Kimberley meeting in November, in Angola and I have already posed some questions about the instructions the European Commission will give their mission, via the Council, to that meeting. Although the official answer is not there yet, it is clear that they are willing to instruct and hope to get the support from the Council.

The job of course is to develop an efficient system of certification of origin to be checked in a very precise way. Without doubt the representative of the Commission will work out that point further.

Welcome again, and may I wish you a very good and fruitful conference in this Parliament which is an important place of democracy. We are all fighting to strengthen our position. We need this kind of connections with the outside world, the civil society, the representatives, and therefore we enjoy hosting this expert meeting.

2.2 Fatal Transactions

Judith Sargentini, International Co-ordinator Fatal Transactions

I would like to welcome you on behalf of NiZA, Oxfam International and Fatal Transactions. We are very happy to see you all present here.

Fatal Transactions (FT) is a loose federation of NGOs all over Europe: Medico International (Germany), Global Witness (UK), The OXFAM members Intermon (Spain) and NOVIB (Netherlands) and the Netherlands institute for Southern Africa.

It were the NGOs that pushed the issue of conflict diamonds fuelling wars in Angola, Sierra Leone and the Democratic Republic of Congo. It also were the NGOs that pushed for certification on this issue. The Kimberley process, a round table discussion with governments, the diamond industry and NGOs, presents a possibility to get international certification. European Member States have been contributing to this process, and now it is time for the European Union (EU) to develop a position on this issue. We want to find out here what position that is, and which role is to be played by which partner. In the United States the clean diamond act has been introduced. NGOs in the USA are pushing very hard for this bill to pass and we should take their work as an example.

However, this expert meeting is not about diamonds, it is about wars being fuelled by natural resources. I could have held this speech on oil, or Coltan. It is about wars in Africa that don't seem to end because of a lot of money being put in it.

The UN has invoked sanctions on Angola, Sierra Leone, and Liberia. Those sanctions help the process towards clean diamonds. Belgium, as an example, has been quick and thorough to implement these UN sanctions.

We are approaching the end of the Kimberley process. Recently a lot of you present here have been to London, and I think some of you will meet each other again in Luanda, Angola. At the end of November 2001 there is a ministerial meeting in Botswana where we expect some results. We are here to prepare those results, because the Kimberley results are still rather weak and the NGOs ask for strict regulation.

Diamonds are not only connected to conflicts; diamonds don't only bring wars. Diamonds also bring prosperity to South Africa, to Namibia, to Botswana. We want to keep that focus as NGOs very clear. It has been this part of the issue that made us decide not push for a boycott on diamonds. There are always remarks about NGOs 'boycotting diamonds', but that is not the issue. We want to clean diamonds, we want conflict free diamonds and we are very aware of the fact that there are economies in Africa that prosper from diamond trade.

Then there is life after the Kimberley Process. Early next year we hope to have a set of ideas coming out of the UN General Assembly. Those ideas need to be implemented in Europe, be it through member states or be it through the EU. It is our goal to get those ideas through, as quick, as good and as precise as possible. I am very hopeful for a fruitful meeting here. Thank you for all being here.

2.3 Presentation of the report 'Conflict diamonds: crossing European borders'

Ms. Myriam Vander Stichele, researcher at the Centre for Research on Multinational Corporations (SOMO), co-author and editor of the report.

The aim of the report was to stimulate the debate and to identify problems of current border inspections as well as the current and future use of certificates of origin for diamonds.

Two drawbacks:

1. SOMO didn't have the financial resources to work on a comprehensive report.
2. not all information was made available for research. One recommendation therefore is to have the participants in the Kimberly-process publish their data per country.

The researchers found at EU-level the following problems regarding the implementation of the UN-resolutions on conflict diamonds:

- Regarding certification: The three countries investigated (Belgium, the UK and the Netherlands) have very different ways of verifying the certificates of origin that need to accompany rough diamonds coming from Angola and Sierra Leone. Belgium has a full and costly verification system in place, consisting of several different authorities with direct electronic links to the government of Sierra Leone, and a special link with the government of Angola. The UK has no such system and it remained unclear to the researchers how exactly the UK could be sure certificates were not forged. Also in the UK sealed diamond boxes are not opened for inspection by customs, but pass into the hands of the customer unchecked. In the Netherlands the researchers found a lack of expertise on verification of certificates.

- Regarding the prohibition of imports of rough diamonds from Angola and Sierra Leone which are not accompanied by certificates of origin and the total prohibition of rough diamonds from Liberia: close border inspection should avoid illegal rough diamonds from conflict areas being imported. Again, the three countries investigated have very big differences. The UK has only selective methods to target specific imports. In Belgium every parcel is inspected. In the UK only HM Customs and Excise Office is involved, in Belgium different authorities are involved. In the UK there are different

entry points of rough diamonds, in Belgium there is only one place where diamonds can be officially imported, and where there is a lot of expertise is available.

In the Netherlands there is a problem of resources: no extra money and personnel is allocated to inspections. As a consequence, that country has very little expertise to do these inspections, both with customs officials and with the officials that monitor the latter.

A conclusion for the EU has to be that its external borders are not fully protected against imports of conflict diamonds. The regulations in place in the different EU countries are not sufficient to claim that the EU has taken all the possible measures to protect its external borders.

- Regarding the problem of inspecting and verifying indirect imports from conflict areas. Within the EU, UN-resolutions on this point cannot be implemented because of EU rules on free circulation of goods with other EU members. Perhaps something needs to be done about trade with countries that have free trade agreements with the EU, like Switzerland, to where for fiscal reasons diamonds are being traded backward and forward.

Conclusions:

Some of the EU countries clearly lack the resources and expertise to fully carry out the UN resolutions. This might undermine the certification system and might stimulate diamond trade to be diverted to (non-EU) countries where the import inspections are lax. Secondly, there is a need for standardised data. Statistics could be used to monitor the rough diamond trade, but the current figures raise many questions rather than clarifying diamond trade.

Recommendations to the EU:

1. The EU should urgently improve external border controls on rough diamond imports.
2. EU trade rules should not be used to undermine current inspection mechanisms which are in full accordance with UN resolutions, including inspecting indirect imports.
3. EU countries should individually and collectively decide on allocating enough human and financial resources to the EU and its diamond trading partners for border inspection, verification of certificates of origin and other monitoring mechanisms.

3 Conflict Diamonds: a broader perspective - why regulation is needed.

3.1 Mr. Christian Dietrich

Researcher, International Peace Information Service (IPIS)

I would like to address the issue of controls on conflict diamonds in both Europe and Africa.

One first definition I would like to make is that conflict diamonds are really no more than illicit diamonds, and they follow the same trade routes, the same circuits, and basically the same points of entry as the legitimate trade.

And as we all know, many diamonds that are mined from alluvial sources in Africa, originate from illicit sources or at least sources that are not licensed.

Another issue is that conflict diamonds and illicit diamonds follow a continuum from a certain mine to a trading apex, such as in Belgium, or Israel or the USA. This network can be cut off at many points along the way. The first is at the mine within the country, and another for example is through import regulations in Europe.

What troubles me perhaps the most is that while we do have European controls - Belgium for example has exceptionally good controls for diamonds imported here from Liberia, Angola and Sierra Leone- diamonds that are coming through from other countries face very few controls.

The curtailment of diamond imports from Liberia means that there is the end of a country of convenience being used by diamond dealers here (Belgium) who are for example bringing in Russian diamonds that they don't want to pay tax on.

But there are other countries that neighbour these conflict zones and which are not subject to UN sanctions. On Sunday when I returned from Kinshasa at Brussels Airport all I needed to supply was where the diamonds I brought were going, the carat value, the weight and my ID. It was my impression that I did not need an export certificate or export documents from the Kinshasa government.

We need to understand how these macro level controls in Europe can be applied to illicit diamonds coming from Congo-Kinshasa, Congo-Brazzaville, or even Rwanda since these are the countries where illicit and conflict diamonds are mixed.

Once these macro level controls are in place, it will be harder to bring diamonds in (to Belgium) without valid paperwork from the country of export. What should concern us is the network of African diamond dealers, middlemen, even formal (licensed) dealers who are buying diamonds from any source they want to.

Belgium for example imports several hundred million US dollars more in diamonds per annum than the Democratic Republic of Congo exports.

So we have an unknown factor of where could these other 300 million dollars of diamonds come from. It is clearly being exported illegally from Kinshasa, but it could also contain diamonds from UNITA. Or it could contain diamonds clearly from the rebel held area's in the Congo. What you see in the Congo is that the middle men come from a town such as Chicapa, which neighbours Angola, where they have no problem buying diamonds from Angola. Diamonds from Angola move easily to Chicapa or the middlemen finance their own expeditions down to Angola to buy diamonds.

As I understand, there is a diamond monopoly in Angola that is pushing the prices down, so a lot of diamonds from Angola are coming up into Southern Congo.

European controls do not address these issues and I think I would urge the European Member States to work more closely with African governments to develop a more sincere mechanism of preventing contamination by conflict diamonds.

Diamond traders in a country such as the Congo can basically do what they want and there is no way to control that. Once those diamonds are legitimised, into the official system of 9 or 10 diamond exporters in Kinshasa, those diamonds are legal Congolese production.

And so they will be stamped by what ever means necessary. In Kinshasa, whatever we in Europe told them to stamp they will because according to them, those are legitimate diamonds. So I think we should look at all stages of this continuum between the first point of mining of diamonds to the eventual resale in Europe.

Another issues I would like to address is that there is a significant fraud in the diamond trade. When you see a company's turnover is maybe 70 million €, but their profit is 16000 € or 30000 € per annum there must be something wrong.

The diamond trade also becomes contaminated by other players, for example Russian Mafia Syndicates involved in the Congo. These types of things have to be ironed out at some point.

3.2 Mr. Marc van Bockstael

Chairman Technical Committee of the World Diamond Council (WDC), member of the Diamond High Council (HRD)

The reason the diamond business is actively involved is that the four to fifteen percent of illegal rough diamond trade distorts the picture of legitimate trade. How can we fight that? First: we need to address what UN resolutions are forcing us to do. This has sometimes meant a change of policy in the West: conflict diamond trade has been used in the past to sustain Western political interests in Africa. The subject of conflict diamonds is thus not new to us.

For implementation of UN resolutions the HRD first focussed on origin of conflict diamonds. But for technical reasons origin determination was soon a closed road. Now HRD and WDC focus on control of three things:

- Control the influx of diamonds from mine to exporter.

-Bringing international operations in line. The certification of the Sierra Leone diamonds was technologically no problem; it was getting the diplomats in New York, Brussels and Antwerp agreeing on it that was.

-Prosecution of those found possessing conflict diamond within the diamond trade. The problem: within a year no one has been prosecuted. Some were 'caught', but released because of a lack of evidence.

The times we are in now make it possible to work on these three focus-points. The Bush administration is now very keen on weeding out trafficking of dirty money. Obviously banks have a very important role to play in this. I am glad to point out here that the Antwerp banks, dealing with most of the money out of diamond trading, have accepted measures against dealers who are working against UN resolutions on conflict diamonds. HRD and WDC want to see a future, after the Kimberly process, to have a fully operational system of certification on every parcel of diamonds. The EU has the levers to make sure the African officials involved will co-operate in bringing this future about.

3.3 Discussion

Ms. Sargentini: Mr. van Bockstael proposed to cut down on development funds from the EU towards African Countries. I am a bit surprised that the MEPs have not responded immediately.

Mr. Howitt: Three remarks:

1. Cutting aid is too easy an option, and too blunt an instrument. It's not that easy to do as it may seem from outside of the institutions and it is not always the best course, because it hurts the people that suffer the most, those at the grassroots level that seek to avoid any support for the regime or the conflict. There are places where we wish it to be used, but we have to be careful about shifting the problem on to the developing countries.

2. When the Council of Ministers said, we want some sort of certification scheme, this was a major step forward, a precedent in terms of trade and trade controls. If it is made to work in this instance, it is a very important precedent for elsewhere as well. What I would like to hear from one of the researchers behind the report is not simply what we can do in the parliament but what pressure we can put on the council of ministers to actually develop and enforce certification.

3. Currently the flavour of the month is corporate social responsibility in the EU and companies are very much in favour of this. In the European Parliament we are interested in that concept, not simply from the point of view of good public relations from the companies but in terms of how we can construct ways in which companies can be made liable within the EU for their actions in third countries outside the EU. I am personally involved and responsible for that work in the European Parliament, and I wonder if anybody would like to say how we can use this issue of conflict diamonds as an example on how we can construct legal mechanisms on the European level which can apply directly to the corporations rather than to trade between countries.

Mr. Dietrich: on the question of corporate social responsibility: One problem lies with statistics: no diamond company is forced to reveal statistics about the origins of their diamonds, where they buy them from and sell them to, because that's all viewed as proprietary information. This is a major block to the appliance of pressure to companies, and to the research of conflict diamond trade.

Mr. Van Bockstael: On Mr. Dietrich comments on the diamond trade not sharing information: First: the HRD is a private organisation, and doesn't own the information at

all. If you want to look at macro-economical trade statistics there is also a privacy problem. These statistics will therefore have to come from customs and ministries of Economic affairs.

Mr. Demeyere: Those people in need of information about people who are behind the trade can get that, providing they - countries - are in the United Nations panels.

Mr. Dietrich: Information collected by the UN panels is not shared with the public, not on an informal basis, and not even within the panel itself.

Mr. Demeyere: I can assure you that the Belgian authorities are fully co-operating, and fully openly, working with the people who are writing the reports for the UN.

Mr. Earnshaw: Why is the information not available?

Mr. Van Bockstael: It depends from which country you want your data. Belgium has total transparency of macro-economical figures. The same goes not for Israel, India or the United States. The European countries are not alone in not providing adequate materials for research.

Ms. Vander Stichele: on the issue of sensitive countries: Is the system of certificates going to help? Is the regulation by the EU on indirect imports from sensitive countries useful? And what kind of resources are we to allocate? To certificates of origin or to companies to identify their information?

Mr. Van Bockstael: on the status of different conflict countries: The embargo on Liberian rough diamonds is assailed: they are sold everywhere, because they are not classified as 'rough'.

Ms. Pauwels: comments on the code of conduct for arms exports: The arms industry has always been difficult in cases of transparency but is starting to surmount these problems. Maybe the diamond industry can do the same.

Mr. Van Bockstael: argues that when you look at the arms companies, most of them are listed companies, so they have an obligation to have their balance sheets every year. In the diamond business there are some that use public funds and need to do the same. Transparency can be reached, of course, but only if the political will to have it is there.

Mr. Van den Berg: underlines the points made by Mr. Howitt: in the case of developing aid you have to reach for positive sanctions instead of negative sanctions. If they're ACP-countries under the Cotonou treaties we have a lot of conditions about good governance etceteras. In the case of Angola, Sierra Leone and Liberia, I doubt that we have an official program with one of their governments. That's something we may have to look into.

Mr. Anthonius de Vries: For each of the three countries there are of course development funds, and there are indicative programs, only not fully implemented because of the fact that these governments do not control their whole territory. One more remark: the UN security council has mandated that there should be controls on the rough diamond trade in the three countries. These decisions have been taken without full knowledge of the world trade system. It doesn't make a lot of sense to allow diamonds with a certificate of origin, if at the same time, in the world trade system, notably dealt with in GATT and WTO, you're allowed to import rough diamonds with a simple declaration of provenance. What was the last country these diamonds were held? then you give ample opportunity to everyone that wants to circumvent the measures of the UN security council.

Mr. Dietrich: about the situation in Africa: More research is needed, NGOs are just scratching the surface of information that is guarded by the diamond industry. Questions like how many diamonds does South Africa produce in a year, who is involved in this

trade, are any of them on the Interpol lists? Are they also dealing arms in other African countries?

Ms. Sargentini: on statistics: it was said the statistics on Belgium are the best we have got. No-one has been saying that these statistics don't add up. How are we to bring these statistics to fit? Another remark dealt with the pressure on ministers. This is a question for Europe as well. This is about economics in the European communion. If the diamond trade is not cleaned up, we have an economic problem because unclean diamonds will not sell because of the ethical questions involved.



Kirsten Hund, Judith Sargentini, Max van den Berg, Caroline Lucas and Richard Howitt presenting the report.

4 Customs control in practice: How to implement UN Sanctions

4.1 Mr. Frank Demeyere

Deputy chief of cabinet, Ministry of Economic Affairs, Belgium

First of all, allow me to thank the organisers of this important meeting for their kind invitation that I received at the publication of the report.

As co-president of the Belgian Task Force on Diamonds and collaborator of the Ministry of Economic Affairs who is in charge of the Belgium Monitoring system it is indeed an honour and a pleasure to get the opportunity to tell something about the way Belgium implemented the UN Sanctions concerning diamond. However, before doing so I must underline that I am no expert regarding customs control.

My intervention will therefore focus on the initiatives that have been taken by the Ministry of Economic Affairs in order to implement the UN Sanctions. But, during my intervention I will include the activities of the customs concerning the diamond trade in Belgium since they are, together with representatives of the minister of Economic Affairs, present in Diamond Office, the place where the Belgium monitoring system is operational. Saying that, it becomes clear that in my country the implementation of UN Sanctions is based on a two-way approach involving customs and economic Affairs.

Unfortunately it would take me too much time to go into details about our monitoring system. However this should not be a problem due to the fact that the report that is presented here today covers quite well how controls on diamonds within Diamond Office are implemented.

Coming back now to today's topic on how we in Belgium have implemented the UN Sanctions, I would like to use a document which was written at the occasion of the Kimberley Process Conference that took place in Brussels in April earlier this year. In this document, and if I am correct an updated text is presently available, we describe the current practice and experience of the national certification schemes for rough diamonds from Angola and Sierra Leone. Added to that is a small paragraph on Liberia. Since the procedures for Sierra Leone and Angola are practically the same I will illustrate the Belgium approach via the system that is in place for Sierra Leone since this is the most elaborated control system. Differences with the system in place for Angola will be noticed.

In explaining the Sierra Leone Model and thus the procedures that have to be followed in order to implement the UN sanctions allow me to make a distinction between 3 kinds of action:

- Electronic data transmission
 - Import procedure in Belgium
 - Audit trail in Belgium
-

Electronic data transmission

This electronic system includes electronic data registration, encryption and data transmission between the Government Gold and Diamond Office in Sierra Leone and the Monitoring and Licensing Office of the Ministry of Economic Affairs in Belgium via a secured server:

the data transmission includes information about the Certificate of Origin and the parcel:

- sequentially printed number
- randomly generated perforated number
- identity of consignee
- identity of exporter
- total carat weight
- total value
- digitised photographs to enable immediate identification of the parcel

Then the Ministry of Economic Affairs confirms to the GGDO receipt of the electronic data.

Import procedure in Belgium

when the package of rough diamonds arrives at Diamond Office, Customs check the sealed bag;

- customs manually record the sequential number of security bag on the Import Confirmation Certificate;
- the Belgian Ministry of Economic Affairs check the electronic data with the original Certificate of Origin and verifies the authenticity of the CoO;
- after verification of the original CoO and the electronic data, the MoEF issues an import license for the shipment. The license mentions that the original CoO was sent to the Ministry in accordance with UNSC Res. 1306;
- the import license, printed photographs of the goods and the parcel, and the original CoO are handed over to Customs for verification;
- after that the sealed box of rough diamonds undergoes a physical inspection done by experts under the authority of the MofEA
- during this physical inspection following parameter are considered: total weight, classification and total value of the goods;
- once this is done Customs stamp the Import Confirmation Certificate;
- finally and after verification of the accounted license and the original Certificate of Origin, the Ministry of Economic Affairs confirms by electronic mail to the GGDO that the import of the parcel has been accomplished and sends back the stamped Import Confirmation Certificate to the GGDO in Sierra Leone.

Allow me to draw your attention to the fact that licenses for the import of rough diamonds from Sierra Leone have some particularities:

- it is an individual import license for the account of the importer
 - only valid for one shipment
 - only issued after the verification of the original Certificate of Origin.
-

Audit trail in Belgium

the Ministry of EA keeps records of the original Certificates of Origin; the stamped Import Confirmation certificate is photocopied and attached to the original Certificate of Origin; the ministry enters the data of the certificate, the photographs and the import license in a national database.

This Ladies and Gentlemen is a description of the Belgium system via which we implement the UN sanctions.

Thank you for your kind attention.

4.2 Mr. Wim Keizer

Origin and Customs Affairs, European Integration Department, Ministry of Economic Affairs, Netherlands.

As a representative of the Ministry of Economic Affairs, I am not directly involved in customs controls. I would like to say a few words:

The Netherlands is aware of the role of minerals in sustaining or even fuelling conflicts in Central and Southern Africa. The Netherlands shares the concern of Fatal Transaction on this issue.

- We acknowledge the importance of the report, in which is asked attention for the problems of control of the trade in diamonds.

Nevertheless, we have to face the fact that it is very difficult to set up a closed system to control the trade in diamonds.

- The report shows that the Netherlands is not a major player in the trade in diamonds.
- Besides that most of the trade are shipments coming in from free circulation in the EU and are already controlled in other Member States at importation.

One of the basic principles of the Internal Market is that goods entering this market are submitted to controls at the external border.

If any diamonds having legally entered the Internal Market they are no longer subject to Customs Controls.

I regret that the ministry of Economic Affairs and the other departments involved have not been consulted about the definite text of the report. There seem to be certain misunderstandings about customs procedures that could be easily corrected and that could possibly lead to different conclusions. Some factual information is not entirely correct and this undermines the strength of the conclusions of the report.

In the Netherlands there is a profound control of the import of diamonds. In the Netherlands import instructions for all kind of goods are included in the electronic system SAGITTA in which the customs official that is dealing with importation can see all measures applicable. Once an import declaration is put into this computer system, the system will flag the restrictions or prohibitions applicable to the goods declared, so any Customs Officer will at that moment be aware of these restrictions or prohibitions and take the necessary control measures.

For Liberia the computerised system indicates the complete ban of imports of diamonds.

For diamonds from Sierra Leone our customs official will see that import is forbidden. For Angola the appropriate authorities and the stamps that are used, are communicated.

If diamonds from third countries are imported in the Netherlands, there exists a system of administrative co-operation to control the content of certificates.

If a resolution of the UN is agreed, with trade policy consequences, the Netherlands will wait for EC-implementation, to have an effective system. When instructions are given to customs they can be directly applied. Instructions given by fax have an official status. EC- legislation is directly applicable.

As far as expertise about diamonds is required, the customs authorities have the possibility to hire an expert. Because the direct trade in diamonds is very limited, it would not be cost-effective for the customs to have an expert on a permanent base.

As I stated earlier, the system of the free circulation of goods makes it possible to declare goods in every Member State of the Community. If goods are brought in free circulation that country does the checks about the import obligations. If the goods enter somewhere in the Community for example at Amsterdam Airport, but the goods are not brought in free circulation, the goods can go under customs control to another Member State, for example Belgium. If the goods are brought in free circulation there the check on customs formalities takes place.

On statistics: For all commodities there is an internationally agreed system of trade statistics. This system is based on origin, information is gathered from customs declarations. For inter community transactions there is an INTRASTAT declaration. It is directly made by the firm that sends the goods to another Member State. Figures are directly send to statistical offices, and there is no thorough control that operators fulfil their obligations. This can mean that discrepancies in the bilateral trade between any two Member States can exist.

Official registration for all commodities in INTRASTAT is based on provenance and not on origin. It is even doubtful whether origin can be asked in intra Community transactions.

Conclusions

1. As far as I can see no direct imports have taken place into the Netherlands of diamonds from forbidden sources. The report corroborates this conclusion.
2. The Netherlands customs service has been promptly informed of the specific measures regarding conflict diamonds. The customs information on import will immediately lead to a check whether the correct information is presented.
3. In my opinion the control system in the Netherlands is efficient and correctly applied.

I have given some general remarks on the report concerning the Dutch position. Personally I have my doubts on a perfect control system. I think that the role of trade itself is underestimated. It is in their interest and responsibility that diamond trade is clean. This should be so important that the trade would ensure itself that no conflict diamonds are being traded. The role of authorities can only be a supporting one.

4.3 Ms. Annemarie Dryden

HM Customs and excise, Restrictions and Sanctions team, UK

(Ms. Dryden points out her presentation will be shorter than the previous two, she doesn't have customs control experience firsthand.)

The report indicates a reluctance by the UK to disclose trade figures. From the report we cannot actually see where the evidence for these claims is from, who was asked etcetera. We cannot comment on the statistics themselves. We do have commercial confidentiality, and that's largely because we have one large trader in the UK and it would be quite evident, when the figures are published, whose figures they would be. Where Sanctions Orders under the 1946 Act are made there are no further regulations made to inform Customs. The Orders form the legal basis of Customs enforcement action. The open general import licences we have are amended and the details of these are fitted into our computer system for imports. Every import that's made then from Sierra Leone, Angola or Liberia is flagged up, and there's a 100% check that these diamonds do contain the required licence. There's also a paper check done with this, to make sure you can match the origin with the certificate. I do accept that on verification it seems the UK does not fully implement this. I will take this point back to our government, and ask for the verifications perhaps to be increased.

The UK doesn't have a diamonds taskforce, as mentioned in the report. We do have other departments that join to discuss sanctions and are involved in the Kimberley process, so we are involved in the diamond certification system itself. Generally speaking, although the UK is a big importer of diamonds, we get very few imports from Sierra Leone or Angola. Most of the imports come through Heathrow, because of the big trader we have in London. We believe our control systems at Heathrow are adequate and I think the fact that we are here today and the fact that we take an active part in the Kimberley process do show that the UK takes seriously the control of conflict diamonds.

4.4 Discussion

Mr. Sebastian Ramspeck: On the problem of origin in the Swiss situation: Until earlier this year one company imported considerable amounts of rough diamonds first to the UK, and then to Switzerland. There they were stored in Swiss free-zones, especially that of the Zurich airport. Then they were brought back to the UK and from there again redistributed to other, third countries. This process probably had fiscal reasons and was perfectly legal but created some confusion because the stones were now declared Swiss stones. This particular problem was solved between the Swiss and UK authorities. For your information I want to say that Switzerland is one of the few countries that requires a declaration of origin both for import and export, and also for entry into the free-zones and diamonds that are cleared in those zones.

Ms. Vander Stichele: on the situation in the Netherlands: It was hard to get information in the Netherlands for the report, and the resolve in the end was to ask custom officers in order to find out how much they were aware of the situation. The transparency problem was there in the Netherlands and I hope this meeting will help to solve this.

Mr. Dietrich: asks why the governments of Belgium, the UK and the Netherlands do not demand official export documents from the governments the diamonds are exported from. The reason for asking has to do with the African smuggling networks. If you have \$350 million of diamonds officially exported from Kinshasa and \$700 million of

diamonds officially imported in Belgium as Democratic Republic of Congo provenance, it's a massive case of fraud. The illicit diamond trade and the conflict diamond trade overlaps considerably.

Mr. Demeyere: on the question by Mr. Dietrich: Belgium has discussed this issue at great length, and are still doing so, with Ms. Christine Gordon of the UN-panel Angola. One of the problems was to have reliable information on those dealers. Apparently at the level of customs - I am no expert, I just repeat what I'm told - is that for customs to accept parcels they do only need a declaration and information concerning the weight of the goods. Next to that I can assure you that with the help of the information we received from Ms. Gordon it is our intention to go further than we have been going so far. But that relies on the information Angola provides, because we do not have the means to investigate in every country.

Mr. Dietrich: comes back to the export certificates: Why do not we command that dealers show some official documents from the governments of Kinshasa or Johannesburg that these diamonds are officially exported.

Mr. De Vries: on the subject of the European free-zone: We have to recognise: free-trade world-wide is a major tool for trying to maintain a global peace. We are building a European community on that basis, and are trying to work on a 'global village' by abolishing borders. Rebuilding borders on behalf of the illegal diamond trade is directly against that principle.

Mr. Stephan van Praet: I think the meeting is of great value, since diamonds are of such value they can make a difference in the development of African countries. Look at the economy of Botswana: it rises because of the diamonds. But when you look to Congo. This subject of conflict diamonds aims at the core of staggering development.

Ms. Vander Stichele: on the remarks by Mr. De Vries: UN-resolutions say: whatever treaty or agreement, the UN-resolution has priority. Secondly: you can say the WTO has been created without taking into account enough what the UN-resolution needs to do as a great instrument to guaranty peace and security. Thirdly: on free trade: it sometimes works against peace, instead of for peace. We have seen that with arms, narcotics, and now diamonds. Fourthly: article 20 of the WTO says that countries can, for security reasons, take actions that are against the WTO. So I hope you can be more subtle in your arguments.

Ms. Kirsten Hund: asks about the certification systems the Diamond High Council is developing with the governments of the DRC and Guinea, independently of UN-resolutions.

Mr. Van Bockstael: on this question, not being very keen to answer: There's one thing you should know: Guinea already has a fully operational system of certification of origin in place. There is a small problem: these certificates are useless in Europe. We have stopped whatever we were doing with Guinea and the DRC. The idea we had long ago was very simple: why could you circumvent UN security council resolutions? Because we were fishing with a small net. What you have to do is make a bigger net to catch the bigger fish. The DHC was trying to work on such a net in Guinea and DRC, but dropped it because of an enormous amount of difficulties and put it's stakes on the Kimberley process from then on.

Mr. Dietrich: on the DRC: we should not underestimate the predatory nature of the Kinshasa regime. There's a lot of things going on with the dealing in official licenses. While it's easy for us to say we need to allow all money to fall in the hands of the government, we have to see that the illegal trade allows a lot of people to survive.

5 The European Perspective: what should the European Union do now?

5.1 Mr. Anthonius W. de Vries

Economic and Financial Sanctions Co-ordinator, RELEX, European Commission

I am happy for the invitation to speak about the role of the EU and EC on the matter of conflict diamonds. I was surprised today to hear representatives of EU-member states say: we implemented the UN-resolutions. That's true, but only to a certain extent. In fact the implementation of the UN-resolutions has been done by the Council of the EU, by a Council regulation on the basis of the proposal of the Commission. As you can see in the annexes of the report you put to us today there are two regulations; one dealing with Sierra Leone and one with Angola/UNITA. You can see differences in these. In the case of Angola the EC proposed that anyone involved in efforts to circumvent the sanction should be penalised. You will miss this article in the regulation on Sierra Leone. The reason is that the member-states said: that was not in the Security Council resolution, so we'll take this out of the regulation. I think the Security Council resolutions are themselves not sufficient enough to deal effectively with the problem of conflict diamonds. It is therefore not strange that the problem is still among us. The reason is: you need to have a comprehensive solution. You have to subject the whole of the trade in rough diamonds to an effective control system. Maybe you should go even further and check the trade in polished diamonds as well.

The Commission is looking at this issue from the perspective of our obligations under international trade agreements. We are looking at the interests all member states have in maintaining a European Community as a vital economic force without internal borders. But we are of course also looking at the issue from the perspective of conflict solution and prevention. There is a possibility we could restrict trade in rough diamonds in agreement with our international obligations if we do it in an effective, efficient and proportional way. In the Kimberley process we are almost only discussing border controls and hardly looking at elements like what has to be done internally by the diamond industries, the governments and enforcement agencies. In the Kimberley process we are talking about export certificates and import controls. It is as if we're talking about putting as many radar controls along a road to check speeding, but forget to have the proper enforcement to punish the offence. With a smaller engine in the cars, the speeding problem can be over. In a similar vein: maybe we should change the habits of the diamonds trade in order to make the system less vulnerable to misuse.

In the Kimberley process we try to introduce a certification obligation for the countries that produce rough diamonds, but also try to subject re-import to controls. It is the opinion of the European Commission that the European Union is not a simple customs union, but more something like an embryonic state. We think that as far as the European Union is concerned, we will be able to at the one hand, control our external borders quite effectively and, at the same time, not give up internal free trade. The system being envisaged is: you will have to show a legitimate certificate when you want to import into the community, and an export licence for exports that can only be obtained if there is prove of the legitimacy of the rough diamonds.

Is this an unreasonable burden on the business community? They say they are able to set up a chain of warranties that will facilitate the control of the exporting authorities of the community. We will have to see if they're able to develop this and work with them to see if they can actually do so.

What's the commission doing now? We're preparing a recommendation to the Council for 'negotiating directives' so the Council can give the Commission a mandate to negotiate in the Kimberley process on behalf of the European Community. Member states cannot be negotiators in this, so the Commission has to be the partner in the Kimberley process. You can be certain the Commission will do its utmost to obtain a result that will deal in a comprehensive way with the trade in conflict diamonds.

But it has to be an effective system. It's not worth the work to give up free trade rules, which in themselves are a contribution to international peace and security, if the restrictions are not serving their purpose. I think this is an element, a balance we have to seek in the system. In the Kimberley process we have amply discussed how we can make restrictions on trade compatible with our obligations under the GATT. I'm afraid that's not so easy issue from the legal point of view. I heard someone say today: the Security Council resolutions have a higher priority than the GATT-obligations. That's true, but the Security Council resolutions are in fact very weak resolutions. They don't deal with the issue in a comprehensive way. But anyway I think as the political will is there we will find a way past this legal point, and in the Commission the will is certainly there.

5.2 Discussion

Mr. Alex Yearsley: on the concept of free trade. Wonderful the concept is, there are certain exemptions to the free trade principles, be it small arms, antiques. Between EU member states there are quite a few controls, especially on statistics, like EUROSTAT. Why is it such a problem to issue a certificate of origin or legitimacy between member states?

Mr. De Vries: The issuing of a certificate of origin will anyhow be very difficult, because we have no diamond mines in the community. The point is: there are no border controls in the community, since we agreed on not having them. It is not necessary either. They would be necessary if they had an added value. Once rough diamonds have entered the customs zone which is the European Union, you have to make sure the internal system guarantees that violations on import regulations will be noticed and penalised. And that is what we try to guaranty. In fact the Commission has always proposed to go beyond the UN resolutions in order to deal with the issues of circumvention. For instance in the case of financial sanctions, we have already introduced certain obligations for banks to give information on accounts they froze, on persons not allowed to transfer money in or out of the EU. By Community legislation we can do much more than member states can do themselves. For instance, financial controls on banks could be done much quicker by community legislation than by, say, UK legislation.

Mr. Yearsley: On the theoretical level and the practical level: if we don't have a system within the member states that is fully complied with the rest of the system, the same obligations that other sovereign countries have to fulfil, you flare the biggest green light to smugglers around. How is the EU for instance to verify if 'Portuguese' diamonds are legitimate trade goods, for all he has to say to the officials: sorry, I got them from

France. I wonder: why is it such a huge difficulty to form some agency to issue an authorisation that those are legitimate diamonds?

Mr. De Vries: The requirements should be: if you want to export diamonds from the community, you have to show you have obtained these diamonds in a legitimate way. How you do this, is up to you as an exporter. If you cannot give conclusive evidence, you will not have an export licence. The exporter thus will have to make sure he buys from legitimate sources, either within or outside of the Community. As long as we can guaranty our law enforcement system is working properly, as long as we can guaranty we do not allow exports of rough diamonds without the proper evidence of legitimacy, there is no reason to install internal border controls which will only add to bureaucracy.

Mr. Demeyere: I understand that we either need the paperwork or we have to check on those diamonds so we can legitimise them. If you want to have a check you need a proper amount of technical knowledge. I understand that it's mainly in Belgium they have this kind of expertise. Is this something that should be available in each of the countries or should members co-operate?

Mr. De Vries: Firstly, the answer to the question of technical expertise in determining the source of diamonds is dubious. In the Kimberley process, if you look at what kind of import controls should take place, the requirements we discuss now are far below what's applied in Belgium. In fact we are aiming, as far as import controls are concerned, at a system that's more similar to that of the UK. That might mean Belgium is overshooting its controls; the added value might not be that great. As far as export controls are concerned, you would want the expertise to find conflict diamonds in a parcel of mixed diamonds - diamonds of different regions. As far as I understand it, that's impossible. Therefore the controls on diamond trading have to be not so much on the technical expertise, as on the checks on buying and selling. The private industry has offered to set up a chain of warranties that they will - also - control themselves, that will ensure the legitimacy of diamonds. So far the Commission is not yet convinced that the plans of the industry will fulfil the minimum requirements for self-regulation. That could grow to be a basis form export controls. Secondly, the question: should we not have a few points of import and export of diamonds in the Community? We as a Commission do not exclude that possibility, but it might not be necessary as long as we can establish very clearly what can be considered conclusive evidence and what should be rejected. That could be applied in every member state.

Mr. Willy Heiler sees it quite impossible to control in the EU if a small amount of conflict diamonds is hidden in a bigger parcel of legitimate diamonds. This is very hard to do because diamond parcels are re-mixed over and over at every stop. When we look at what's happening in Sierra Leone, you see all the good intentions, laws and regulations are gradually slipping away. The control of the money, the way diamonds are controlled technically; you can export now, even if the so-called external validator is having his holiday. The origin of the stones in Sierra Leone is impossible to control. No-one can ever tell scientifically what's the place of origin, so you have no case if ever you want to attack the industry or an exporter. Let me tell you the industry today only wishes that we wouldn't have the burden of this three percent of diamonds that do a lot of damage to our industry. We prefer a system where we buy diamonds and can prove everything is legal. But there are other parties that have interests in this trade, with other purposes. What for instance the EU could do is to put more pressure on the local governments to be sincere about what they do, and not, as is the case today, people telling you everything is improving while as a fact their grip is slipping away.

Ms Laenens: Spoke of Mr. De Vries' words that Belgium was perhaps 'overshooting' its marks and defended that the Belgium system shows an example to be followed.

Mr. De Vries: I hope I have been careful enough to distinguish between what I think and what the European Commission is considering to be necessary. In the Kimberley process the consensus was that on the import side less control is essential than is being done in Belgium at this moment. The Commission, in this respect, looks at all the possible solutions and problems that may arise. We should not forget that to a certain extent the Belgian control mechanisms, for instance the valuation that takes place in Antwerp, were accepted by the African countries because it helps them establish a possible difference in the value declared at export from their country and imports in the EU. It's a normal trick in international trade, and certainly one used by the developing countries, that exporters undervalue their product, because it lowers their tax payment, while on the import side you might find a much higher value. If you have a proper co-operation between importing and exporting countries, there is no problem. There are other elements, for instance the practice of photographic exchange between Antwerp and Sierra Leone. In the Kimberley process it has been said this is optional, not strictly necessary to have an effective control system. You will find different attitudes towards this by different member states.

Ms. Wameyo: on the need for a wide net: Each of the institutions present here has a responsibility for the problem. The more we dilly-dally in the process, the more people in Africa lose their lives because of things we do not agree on.

That brings me to things we did agree on. I would not go as far as Mr. De Vries does, for instance on the outcome of the London meeting. We agreed in principle, not on details. The responsibilities of the European Community were discussed aggressively, and we agreed the EC has an important part to play in pushing this problem forward. But I won't say we agreed; we deliberated on things, and we still have to work hard on pushing things forward.

Ms. Sargentini on the issue of internal European Union control: I understand the problems Alex Yearsley has with that and the formal reaction of Mr. De Vries to this. Mr. De Vries mentioned we have to have import controls on the European border and export controls when diamonds leave the EU. That's simple enough, but you say as well that to be able to give an export certificate from out of the EU to elsewhere, we need to rely on the industry. I haven't heard the industry comment on that, and I would like to know from Mr. Van Bockstael and Mr. De Vries how they would like to do that. Is the EU going to issue a certificate from a whole chain of trade through the EU on information the industry gives? And to the industry: you've been pushing for stricter regulations from governments, and say you will comply as long as the governments force you to. In this way, you are playing a game with us, the NGOs, by pointing at each other and saying: they have to clean their act before we can step in. Now this discussion is about how to get us a bit closer to a certificate that works within the EU, recognising both the rules of trade in the EU and the interests of the industry. How will we bring that about?

Mr. De Vries: The Commission is thinking of proposing to the Council the idea: each exporter that wants to export from the community has to provide conclusive evidence of the legitimacy of diamonds. You need a couple of criteria for this, foremost the question what is conclusive evidence. And we need a paper trail so you can trace each transaction between import and export. We thought of a system of numbered invoices, like is in place to track money laundering. I think the industry has to come up with

alternatives. If they don't do that the government or Council will have to prescribe what is conclusive evidence.

Mr. Van Bockstael: The chain of warranties that was proposed by the World Diamond Council is exactly the thing Mr. De Vries referred to. To be honest: we have not thought about the implications yet of that system if we see ourselves as European, not as Belgians. I want to rephrase on one particular thing: when Mr. De Vries says he wants numbered invoices I want to remind him the EU customs nowadays don't ask for invoices, let alone numbered ones. It's very nice to say: it's the industry, but I point the finger back to where it came from.

Mr. David Earnshaw: I find it extremely frustrating the diamond industry has not, until now apparently, remarked that the European Union has a single market.

Ms. Sargentini: I want us to get away from the idea the NGOs are 'blaming the industry' or the EU: we just want to see that everyone takes its responsibilities. And I'm worried that the European Commission shows willingness to take responsibilities, but when it comes to details they point to an industry that has not considered how to deal with this. I don't understand how a legal entity like a government can give a licence to a chain you have not been following. We cannot keep talking about the way we are going to do this. There've been remarks about how the Belgians are doing it, I would like the Belgian government to step into this discussion now to tell us how they do work together with the industry

Mr. Daeyaert: we have commented over and over again on the way we work within the diamond office, with customs and industry representatives. What I would add is that having physical knowledge of each parcel is additional to what I write on paper about them. It allows you to know what you're talking about, to assure you know with which diamonds you're dealing, of what quality and so on. This to assure that what is on the licence, is exact.

Mr. Wim Keizer on export controls: I think it's not unique that certificates are given at exportation. In all preferential agreements we have such a system, and therefore it is needed to have evidence at customs before you can export with a licence or certificate. I think there must be prove from the operator about what's done with the goods. This is not different with diamonds as with, say machines that are re-exported from the Community. I think there is a task for the industry to prove it.

Mr. Van den Berg: If you look to the Kimberley process, there is an agreement that you want to control as an EU the imports and exports. I think, as I understand the situation correctly, you should be able to come to a deal in about two or three months. As a MEP I think the Belgian situation might not be aiming too high, but might be needed. What I like to hear is why this should be an issue: it could only be a problem if the system was not only shooting too high, but without results. Is there anyone here who can comment on this, because I want to leave this meeting with the right conclusions.

Mr. Dietrich: Why I'm critical of the Belgian system is that it willingly imports diamonds declared of a providence of whatever country is declared at the airport. Another question is about countries that neighbour countries that produce diamonds. Do we put greater controls on them then we do on Israel or the US?

Mr. Demeyere: We do in fact impose greater controls on countries neighbouring conflict zones - the sensitive countries. We have instructed both customs and the experts at diamond office to pay special attention to those parcels coming from sensitive areas. We need a further certification system to verify if we are dealing with first imports or re-imports and -exports. If we have an international system of certification we will be able to make a distinction between first and other imports, giving us an exact picture of

the whole of the diamond trade that passes through Belgium. Already with the available statistics we have an early warning system for sensitive countries in the databases that is very helpful.

I cannot comment on the questions which countries they are for obvious reasons, but rest assured this is no statically list.

Mr. Yearsley: I want to correct the association that was made about the Kimberley process saying the Belgian case is too strong. That's absolutely not the case. They should be repeated throughout the EU and beyond. If you would dismantle them for reasons of European uniformity, what would then happen? A last thought is about the links between diamond trade, money laundering and terrorism. Maybe our actions concerning the conflict diamond trade can have a lot more relevance a lot more quicker than we thought.

Mr. Van Bockstael: Mr. De Vries said we need a comprehensive system with export licences from diamond producing nations and from diamond exporting nations. When we talk about a chain of warranties, we are making it a lot easier to check on illicit diamonds than what is the situation today. We would like to see the EC building pressure on governments like the one in Guinea to attach documents to diamonds. If that remains impossible, I'm not very optimistic.



Glenys Kinnock, Sjoera Dijkers, Max van den Berg and Anthonius de Vries receiving the report.

6 Conclusions

by Judith Sargentini, international campaign co-ordinator Fatal Transactions

Maybe the last words of Mr van Bockstael, representing the World Diamond Council and the Diamond High Council, stating that without European pressure to countries like Guinea, not much change for the better will come, were a bit depressing but I don't think it is necessary to look at it that way. There are still some months to go, before the Kimberley proposal needs to be signed. There is still some time left, before we will have a final certification proposal on the table, and I am sure that if industry, taking up their own responsibility, and governments keep on working hard and working together on this issue we will come up with good ideas. And of course we NGOs will keep the pressure high so that all players will do their best to reach a working proposal.

There are a few things that have to be mentioned to conclude this meeting:

The issue of trade figures. We have been discussing the issue of statistics today, and nobody really gives an answer as to why the statistic's don't add up. I think you all agree with me that it is strange that export and import figures from the different countries that were reported on in the report, do not match. It is clear that if we want a proper certification system, we need to have proper statistics. I hope this meeting has brought us a little forward in pushing all countries involved in doing the utmost to publish correct figures.

Secondly, there seem to be unnecessary difficulties to talk about import and export figures per country, for so called 'commercial reasons'. However, there is nothing secretive about the fact that the biggest London based importer of diamond is 'De Beers'.

It has been made clear here today that if we want an effective certification scheme, it needs to be functioning not only in the European Union, but also, and especially, in Africa. Mr. Dietrich has been emphasising this. We should keep in mind that when the Kimberley proposal is finalised, countries in Africa are going to need information, support and customs training.

Another issue that Mr. Dietrich mentioned is the informal trade in Congo and Angola, through which a large amount of diamonds escape into the illegal trade. We have not discussed this issue here, in fact it has not been discussed in the open a lot, but we should keep this in mind.

The question 'how to keep the pressure on the Council of Ministers and the European Commission and how to keep them involved', as has been put forward by MEP Howitt, is something we NGOs should look into. For this we look at the European Parliament, as this body in particular has an important role to play. Although the discussion today has been mostly about the role of the European Commission, as diamonds are considered as a trade-issue, in one way or the other we have to keep this a Parliamentary issue as well. It is essential to keep the European Parliament involved.

We started this meeting with saying that the issue we are dealing with is not just the diamond trade. The issue is these precious stones fuelling civil war and armed conflicts, and I think we should conclude with that. Fatal Transactions is working on

trade issues because we want to try to end wars. We think the European Union and the European Commission have a responsibility to take.

In the meantime we are waiting for the answers on the questions that MEP Max van den Berg has put forward to the commission and the Council, on the mandate of the EC in the Kimberley Process (see Annex 1 and 2). We will see what they bring, and how this will result in the effectiveness of the next Kimberley meetings in Luanda and Gaborone.

We are really hopeful that, when it comes to the end of November at the Ministerial conference in Gaborone, where the Commission as well as the ministers of at least 7 EU countries will present, we will hear a clear European voice that pushes for controlled world-wide regulation on conflict diamonds. Only then we can meet the challenge to break the link between the trade in conflict diamonds and the perpetuation of violent conflicts in Africa, and show that our priority is peace and security, not our own economic and trade interests.

Thank you.

7 Annex 1: List of Participants

1. Mr. Max van den Berg, MEP
 2. Ms. Marita Hutjes, Assistant MEP van den Berg
 3. Mr. Sebastian Zaleski, Assistant MEP Oostlander
 4. Ms. Alexa Froger, Assistant MEP van den Bos
 5. Ms. Glenys Kinnock, MEP
 6. Ms. Caroline Lucas, MEP
 7. Mr. Richard Howitt, MEP
 8. Mr. Anthonius de Vries, EC
 9. Ms. Jette Egelund, EC, DG External Relations
 10. Mr. Gerd Kramer, MEP
 11. Ms. Tsigereda Wlelign, MEP

 12. Mr. R. E. van Pomeroy, Ministry of Finance, Netherlands
 13. Mr. Daniel Daeyaert, Ministry of Foreign Affairs, Belgium
 14. Mr. Wim Keizer, Ministry of Economic Affairs, Netherlands
 15. Mr. William Asselborn, Ministry of Foreign Affairs, Belgium
 16. Ms. Nathalie Kröner, Ministry of Foreign Affairs, Netherlands
 17. Ms. Frieda Coosemans, Ministry of Economic Affairs, Belgium
 18. Mr. Stephan van Praet, Dept. International Cooperation, Belgium
 19. Ms. Annemarie Dryden, HM Customs, UK
 20. Mr. Balmer, DG Customs, Switzerland
 21. Mr. Sebastian Ramspeck, Secretariat for Economic Affairs, Switzerland
 22. Ms. Judith Heimann, Embassy USA

 23. Ms. Gladys Castaneda, UN Information Centre
 24. Ms. Isabelle van Damme, UN Information Centre
 25. Ms. Valentina Staelens, UN Information Centre
 26. Ms. Mira Motlagh, UN Information Centre

 27. Mr. David Ferraro, Quaker Council for European Affairs
 28. Ms. Laura Ribeiro, Global Witness
 29. Mr. Mario Weima, NOBIB
 30. Mr. David Earnshaw, Oxfam International
 31. Mr. Jean Musway, Forum Nord Sud
 32. Mr. Christian Dietrich, IPIS
 33. Ms. Anne Colmant, Oxfam Brussels
 34. Mr. B. Janssens, Brussels Center of African Studies
 35. Mr. Alex Yearsley, Global Witness
 36. Ms. Leen Laenens, AGALEV, Belgium
 37. Ms. Amboka Wameyo, Action Aid, UK
 38. Mr. N. Pauwels, IPIS, Belgium
 39. Ms. Thérèse Nikoyagize, European Centre for Common Ground
 40. Ms. Carla Pratesi, Movimondo, Brussels
 41. Ms. Valeria Garibaldi, Cooperazione Internazionale, Brussels
 42. Mr. Peijnen, Human Right Watch
 43. Mr. Rens van der Linden, NiZA, Netherlands
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- 44. Ms. Kirsten Hund, Fatal Transactions, Netherlands
- 45. Ms. Judith Sargentini, Fatal Transactions
- 46. Ms. Karin Ulmer, APRODEV

- 47. Mr. Marc Limon, Hill and Knowlton
- 48. Mr. Peter K. Gross, ABN-AMRO
- 49. Ms. Monika Veric, ABN-AMRO
- 50. Mr. Marc van Bockstael, Diamond High Council
- 51. Mr. Willy Heiler, Rapaport Belgium BVBA, Belgium
- 52. Mr. Marc Kerhove, CNCD, Belgium
- 53. Mr. Ludwig Coelst, Diamwatch, Belgium
- 54. Mr. Tom Ceulemans, Anchis, Belgium

8 Annex 2: Questions to the Commission

Parliamentary questions

WRITTEN QUESTION P-2509/01

by Margrietus van den Berg (PSE) to the Commission

(05 September 2001)

Subject: Trade in conflict diamonds

International ability to curb the trade in conflict diamonds is closely linked to the success of the Kimberley Process. At present this process is moving forward slowly, partly because the European Union does not have a common position. How soon does the Commission intend to submit to the Council a proposal for a mandate for the Kimberley Process negotiations?

Furthermore, border checks on the import of diamonds, preventing conflict diamonds being imported into the EU, require specialist knowledge on the part of the customs services. Does the Commission consider that it would be useful to limit the points through which diamonds can be imported to one per Member State so as to concentrate the expertise?

9 Annex 3: Questions to the Council

Parliamentary questions

WRITTEN QUESTION P-2483/01

by Margrietus van den Berg (PSE) to the Council

(31 August 2001)

Subject: Trade in conflict diamonds

International ability to curb the trade in conflict diamonds is closely linked to the success of the Kimberley Process. At present this process is moving forward slowly, partly because the European Union does not have a common position. How soon does the Council intend to give the Commission a mandate for the Kimberley Process negotiations?

Furthermore, border checks on the import of diamonds, preventing conflict diamonds being imported into the EU, require specialist knowledge on the part of the customs services. Does the Council consider that it would be useful to limit the points through which diamonds can be imported to one per Member State so as to concentrate the expertise in a restricted number of places?