

Diamonds, Peace and Progress in the Democratic Republic of the Congo

Report, Conclusions and Recommendations

*Brussels, Belgium
September 18 – 19, 2002*

The conference on *Diamonds, Peace and Progress in the Democratic Republic of the Congo* concluded that the Security Council must take action on the issue of conflict diamonds in the Democratic Republic of the Congo that is consistent with actions it has taken in the past to halt conflict diamonds in Angola, Sierra Leone and Liberia. Effective sanctions must be put in place to stop the plunder of natural resources in Congo and permanent monitoring mechanisms must be developed to control and halt the pillaging and trafficking of Congolese resources. The conference endorsed the Kimberley Process and urged governments and the diamond industry to take the necessary steps to implement the agreement by January 1, 2003.

The conference, held in Brussels, Belgium, on September 18 and 19, 2002, was organised by Partnership Africa Canada (Ottawa), the Netherlands institute for Southern Africa (NiZA) (Amsterdam) and Fatal Transactions (Amsterdam). Participants included representatives from non-governmental organizations from the Democratic Republic of the Congo, Belgium, the Netherlands, the United Kingdom, the United States, France and Canada. Representatives from governments and the diamond industry participated in the first day of the conference.

Key issues from conference sessions:

On the current situation in the Democratic Republic of the Congo:

- There are signs of hope in the DRC, given progress made through the Intercongolese Dialogue. However, the country is still subject to a military regime which is not known for respecting human rights and the legitimacy of government institutions is still an issue. Without a legitimately-recognised government in power, it is hard to discuss the need to develop new mining laws and the establishment of business codes.
- Civil society in DRC has been working hard to contribute to the new social and economic order. A delegation from civil society was elected to speak at talks in Sun City along with delegations from the armed forces, the government, and religious leaders. However, civil society in the provinces must be better organised and strengthened in order to effectively speak out on poverty issues and human rights abuses and to have an impact during the transition period.
- Northern NGOs have begun returning to Congo, having reduced activity due to the wars. Northern NGOs need to involve national NGOs in their programming and there needs to be effective co-ordination amongst international and national NGOs in their dealings with the government.

On the mining industry in DRC, building on points made in Hard Currency: The Criminalized Diamond Economy of the Democratic Republic of the Congo and its Neighbours:

- People working in the mines can be considered as “indentured”. They live in miserable conditions, living on less than \$1US/day. There is no return to the communities of revenues from mining – e.g. there are no taxes to rebuild schools and hospitals destroyed in the war. Children work in the mines – resulting in no school attendance in the rural areas.
- The ecosystem is being destroyed by mining activities. In diamond mining, river courses have been diverted through the large-scale displacement of earth, making the land unsuitable for agricultural purposes.
- National and international networks are involved in the legal and illicit export of diamonds from the Congo. Four networks were identified: the Ugandan network involving military generals, the Rwandan network, the Lebanese network and a Congolese political/military network. Diamonds follow set smuggling routes which are dependent on lax government policies. Diamonds are easily taken to the Middle East, South Africa, etc and declared as originating from a country other than the DRC. A key issue in the functioning of the networks is that people at all points along the chain make money.

- While conflict diamonds are considered to account for less than 4% of the world-wide diamond trade and there is peace in Sierra Leone and Angola (albeit tentative), the illicit trade of diamonds (which accounts for 20% of the trade) remains a major concern. Smuggled diamonds enable money laundering, tax evasion, etc. As 60% of all diamonds come from Africa, it is clear that the issue of illicit diamonds is a substantial problem.
- Conference presenters noted the need to track and bring to justice those dealing with illicit and conflict diamonds and to address the role of African militaries (who can be motivated by commercial opportunities when getting involved in a weak, fractured state with abundant natural resources).

On the Kimberley Process and preparations for implementation:

- The Kimberley Process was started two years ago by African diamond producing countries and is a unique forum uniting governments, the diamond industry and NGOs. The Process has produced proposals for an International Certification Scheme for the purpose of breaking the link between armed conflict and the trade in rough diamonds. The next KP meeting will take place November 4 – 5 in Interlaken, Switzerland, at which the scheme will be endorsed by participating countries.
- At present there are 37 governments in the Kimberley Process and the European Union. The KP would also go some way to curbing the illicit diamonds industry. At present there are huge volumes of diamonds emerging from countries that don't produce them; those countries wouldn't be allowed to legally export diamonds under the Kimberley Process.
- The biggest problem now confronting NGOs is that of monitoring the process. As it now stands the KP will not have independent monitoring but the system won't work unless there are regular and independent monitoring systems and real sanctions for the countries that break the rules. At present, provisions for monitoring are so vague that there would need to be a huge debate before concluding that a country is not meeting the requirements. This is a long way off.
- In response to NGO concerns about monitoring, the EC representative noted that the system in place now is just the beginning and any flaws that are discovered can be improved. It provides us with tools to work with. At KP Annual Meetings, reports will be submitted by member states for open examination. If the report from a verification mission is negative, it will be discussed with the country in question that will be required to rectify their position. Reports will not be made public. They will be posted on the KP web site in a restricted access area and would not be discussed publicly.

On European Commission Preparations for KP Implementation:

- In August, the European Commission adopted a proposal for a Council Regulation implementing the certification scheme within Europe. The Council of the European Union is presently discussing the proposal with a view of adopting it in time for the Ministerial Meeting of the Kimberley Process to be held in Interlaken, Switzerland, November 5. (note of the editor: the regulation was not adopted in time, and most probably will be passed at the end of November) It was noted that this is by no means an ideal proposal but it is a good beginning and the certification scheme will do away with declarations of provenance which currently provide the greatest loophole for trading in conflict diamonds.

Contents of the EC proposal:

(see http://europa.eu.int/eur-lex/en/com/pdf/2002/com2002_0455en01.pdf):

- The production countries will control all exports and issue a KP certificate which will accompany all parcels of rough diamonds. Diamonds will be packed in a sealed container.
- Importing countries will inspect the seal and certificate.
- Any diamonds unaccompanied by a KP certificate will be prohibited entry as will diamonds from non-participating countries.
- Imports will not be accepted without a certificate validated by an official of a KP participant.
- There will be rules stating under which circumstances the sealed containers will be opened and what will happen if not in order.
- To be able to have an EU export certificate exporters must prove that the rough diamonds have been imported in accordance with the KP Scheme.

On Reactions for the EC Proposed Regulations:

World Diamond Council concerns about EC Regulations

- The WDC will not accept article 12 (a 3 months dispensation to trade of old stockpiles, after 3 months those stocks should have been emptied out). In practice one can not keep stockpiles, which will have dramatic affects on the legitimate diamond business. At present the deadline for all current stocks to be dealt with is three months. If the diamond industry applies what the Commission has proposed on a world-wide scale, three months after the Kimberley Process is implemented the diamond trade will be extinct. Why? Because it's a matter of supply and demand. If this happens, in three months everyone will be in a position to buy rough diamonds.
 - Another major problem is article 3.2.C stating that the certificate has to be attached to the container in an inseparable way. This is not required in the KP-system. If the commission includes this, Europe goes beyond Kimberley. The diamond industry also fears that this certificate will show the value of stones in the container, and with that risking that the box will go missing
 - System of warranties (article 17, industry self-regulation); how do you track these? The CPA will have to go through the books to ensure warranties coming in and going out tally. This will mean that the added value of the diamond industry will be more transparent.
 - Culpability: companies are not entities (art. 17). If there is one errant member not adhering to the KP scheme it is not feasible to punish the entire company.
 - Article 17 offers a major discrepancy with the code of conduct
 - Article 27 refers to EC nationals who are no living within the borders of the Union and still have to apply the terms and conditions of their home country. How can these diamantaires maintain their business when they have to obey two sets of rules.
 - Article 28 the implementation of EU regulations will be immediately effective on date of publication whether the KP is happening or not.
 - The Diamond Industry is in no position to perform self-regulation. If we are penalised in Europe because articles 12 and 17 are not going to be suspended, our colleagues in Switzerland, Dubai etc will have an unfair advantage. So of course WDC would like to see EC regulations implemented according to the Kimberley Process and at the same time as the KP.
- Response from the diamond industry: The main question is 'have we done our job?' And the answer is 'No'. A system has been put together to make it difficult to start smuggling diamonds, but not to end the trade in conflict diamonds. We have given incentives to Africa so they can increase their revenue on diamonds but there is also a category of diamonds Kimberley does not deal with: illicit diamonds. Because wars in Africa are drawing to an end and there is increased mobility, the trade in illicit diamonds is increasing.
 - We can stop in part conflict diamonds but we cannot stop illicit diamonds. The EC regulation gives the impression we have reached our goal, but this is far too optimistic. The EC proposal '*Council regulation implementing the Kimberley Process certification scheme for the international trade in rough diamonds*' [Brussels 080802, COM (2002) 455 final] will have negative effects on legitimate diamond business and no effect on conflict diamonds.
 - Fatal Transactions' concerns about the draft EC Regulation:
 - The regulation needs some improvements but what is important at this stage is to have this regulation on the table.
 - The Diamond Industry may consider itself the driving force of the Kimberley Process but in fact the industry is now stalling the process. The proposed European System is heavily dependent on industry self-regulation. A diamond dealer that wants to export rough diamonds outside the Union needs to prove that the diamonds were clean when entering the Union. This reverse scheme of proof asks for a paper trail, which should be provided by the industry. So far the European diamond industry (mainly the HRD in Antwerp, and De Beers in London) have not been able to unite their members in such a scheme for self-regulation. By still not publishing the proposal for industry self-regulation it is now guilty of slowing the whole process down.
 - It is not enough to check a parcel of diamonds when it reaches its first European border. To end the trade in conflict diamonds one needs to start at the source. For successful implementation of the certification scheme for rough diamonds, the European Union will need to contribute to capacity building of customs services in African diamond producing countries.
 - WDC points out the abandoning of the stockpile within 3 months after implementation of the regulations as its main problem. That to me proves a negative attitude towards the regulation as a

whole. This period of 3 months is a working time length and can be open to discussion. If this is not acceptable all you have to do is give a viable alternative.

- Politically the Council regulation is regarded exclusively as a Trade issue. In reality this is a mistake. The main reason for combating conflict diamonds is to end the fuelling of wars by trade in diamonds. Conflict resolution and development reasons are more valuable and should be grounds on which this regulation is based. (Articles 133, 179 and 95 of the Treaty). We recommend that northern governments provide assistance in capacity building to African governments so that they can effectively manage their diamond resources for the benefit of development in their country.

On the Kimberley Process and other international actions concerning diamonds from the DRC:

- In considering the impact of the KP certification scheme on diamonds from the DRC, the following categories of diamonds are affected:
 - Those mined in occupied areas; it will no longer be possible to export any diamonds from occupied territories to Europe via occupying countries (Rwanda, Uganda) as an official participant of the KP has to issue an export certificate. An occupying power will not be recognised as such. At the first point of export rough diamonds can only be mined within the territory of that participant
 - Those mined by other states but with a permit from the DRC(Zimbabwe, Namibia) ; if they can provide a DRC certificate of origin they can continue to trade DRC diamonds.
 - Those mined and exported by the DRC government; If the government of the DRC is able to implement the KP scheme then they will be able to sign up and export legally to other countries.
- There is no UN resolution concerning sanctions against conflict diamonds from the Congo. NGOs recommend that the EU push for UN sanctions to ban exports by any foreign power of diamonds from the Democratic Republic of the Congo that are not certified by the Congolese government.
- The European Commission should require greater transparency and accountability of government-controlled exports from diamond-producing countries, enabling the population to benefit from diamond revenues. In the DRC, revenues from the diamond trade would benefit the whole population through investment in development.

Ways Forward for NGOs : The response

Conclusions and recommendations from the workshops

- *Diamond trade from and through the DRC:*

NGO's and the international media should:

- Continue to name and shame individuals, state and non-state actors who are trading in conflict diamonds, and continue to highlight the link between conflict diamonds and terrorism
- Establish a legal framework to prosecute and punish those who trade in conflict diamonds through the Kimberley process, the International Criminal Court and through national laws of the diamond producing and trading countries.
- Put pressure on governments to implement the Kimberley Process by January 1st, 2003
- Pressure the diamond industry to develop and implement the chain of warranties by January 1st, 2003
- Pursue reparations for victims of conflict diamonds.
- Ask for a UN Security Council resolution on the DRC, which sanctions diamonds and other plundered resources, consistent with its actions to halt conflict diamond in Sierra Leone, Liberia and Angola.
- Pursue a permanent monitoring mechanism which reviews on a regular basis the plundering and trafficking of Congolese resources
- Lobby for effective monitoring of the Kimberley Process through independent, credible monitoring of all Kimberley Process participants.
- Ask the Belgian government to publish a list of individual companies that are involved in trading illicit diamond from the DRC.

- *How to support Congolese Civil Society*

Western NGO's (and the international community) should:

- Involve Congolese NGO's in international networks to guarantee their security and capability to openly critique their government/ occupying forces
- Facilitate contacts between Congolese NGO's from various parts of the country, facilitate communication and the exchange of information; assist in building up a strong civil society in all parts of the country, also on the various regional levels.
- Stimulate and facilitate contact between NGO's from the Central African region working on the extraction of and trade in natural resources
- Support research initiatives and assist Congolese NGO's and institutions in developing research capacity.
- Assist in making information (UN panel report, other reports, Congolese mining code etc.) available to as wide a public as possible to raise awareness among the Congolese population on the plundering of their resources
- Pay special attention to the education of various groups of the Congolese population such as:
 - Young people, in Europe as well as to those working in the mines
 - Women
 - Farmers/ miners: make those who dig for diamonds/coltan aware of the true value and costs of what they are searching for
- Assist and strengthen existing networks within the DRC (like the one created in Kinshasa in August 2002, coordinated by CENADEP) for the exchange of information and the co-ordination of activities.
- Exchange knowledge, information and techniques in order to strengthen the lobbying capacity of African NGO's
- Facilitate participation of Congolese NGO's to international conferences/ meetings like the Kimberley Process and organise meetings between members of governments/ industry and African NGO's.
- Organise exchanges between (African) NGO's that work on lobby on related issues to exchange ideas and information

- *Other resources that finance the Congolese War*

Western NGO's should

- Develop a lobbying strategy together with Congolese NGO's with the members of the UN Panel of Experts and the members of the Security Council before the publication of the report, to get as strong a conclusion as possible
- Organise an international campaign to implement the recommendations on all resources made by the UN panel
- Research the possibilities and consequences of an embargo on trade in natural resources such as coltan and timber from the eastern part of the DRC.

GENERAL CONCLUSIONS

- The problems in the DRC are both local and international. Congolese must take some responsibility for the solutions, along with international institutions and the private sector.
- NGO's in the DRC both at national and at local and regional levels need international solidarity, capacity building support, cash and protection if they are to play a sustained and effective role in changing the country for the better.
- There is serious concern about the political will of outside organisations, governments and companies to practise what they preach : talk is not enough. The UN Security Council, the Kimberley process and others concerned about the ongoing exploitation of the DRC must act now.

Recommendations towards the Security Council

The Security Council must take action on the issue of conflict diamonds in the DRC that is consistent in its actions to halt conflict diamonds in Angola, Sierra Leone and Liberia. The Security Council should endorse the Kimberley process.

Participating Non-governmental Organizations:

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Centre d'Étude de Documentation et d'Animation Civique (CEDAC), DRC
CENADEP (Centre National d'Appui au Développement et à la Participation Populaire), DRC
Centre National De Coopération Au Développement (CNCD), Belgium
Cordaid, Netherlands
11.11.11., Belgium
Fédération Nationale Des Entreprises Du Congo, DRC
Global Witness, United Kingdom
GRIP (Groupe de Recherche & d'information sur la Paix et la Sécurité), Belgium
Human Rights Watch, U.S.A.
Institute of Development Policy and Management, Belgium
International Peace Information Service, Belgium
Justice, Paix Et Sauvegarde De La Création De La Communauté Baptiste Du Fleuve Congo (JPSC/CBFC), DRC
L'Entraide Missionnaire, Canada
Netherlands Institute For Southern Africa, Netherlands
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OCEAN (Organisation concertée des écologistes et amis de la nature), DRC
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Oxfam America, U.S.A.
Oxfam-Solidarité, Belgium
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Fatal Transactions is an international consumer campaign consisting of Novib-Oxfam Netherlands, Medico International Germany, Intermón-Oxfam Spain, Netherlands Institute for Southern Africa and IBIS, Denmark calling on the public and other interested organisations to ask governments and companies involved in extractive industries to implement effective controls to ensure that the trade in natural resources does not finance or otherwise support conflict and economic injustice in Africa. Website: www.niza.nl/fataltransactions.
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Netherlands institute for Southern Africa (NiZA) is hosting the international secretariat of Fatal Transactions. NiZA is a politically independent organisation for the promotion of democracy in Southern Africa. NiZA stands for independence of the media, economic development and the promotion of human rights in Southern Africa.

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