

BROKEN VOWS

Exposing the “Loupe” Holes in the
Diamond Industry’s Efforts to Prevent
the Trade in Conflict Diamonds

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Global Witness is a non-governmental organisation which focuses on the links between environmental and human rights abuses, especially the impacts of natural resource exploitation upon countries and their people. Using pioneering investigative techniques Global Witness compiles information and evidence to be used in lobbying and to raise awareness. Global Witness’ information is used to brief governments, inter-governmental organisations, NGOs and the media. Global Witness has no political affiliation. Global Witness was co-nominated for the 2003 Nobel Peace Prize for our work on conflict diamonds.

EXECUTIVE SUMMARY

This report details the results of Global Witness' survey and investigations into the implementation of a system of self-regulation to support the Kimberley Process, the international governmental certification scheme aimed at preventing the trade in conflict diamonds. In January 2003, the diamond industry agreed to implement a system of self-regulation as part of the Kimberley Process, to prevent conflict diamonds from entering the legitimate diamond trade and to give consumers assurances that diamonds are conflict free. All sectors of the diamond industry made three promises:

- ◇ To implement a code of conduct to prevent buying or selling conflict diamonds
- ◇ To implement a system of warranties requiring that all invoices for the sale of diamonds and jewellery containing diamonds must contain a written guarantee that diamonds are conflict free
- ◇ To inform company employees about the industry's policies and government regulations to combat the trade in conflict diamonds

The system of self-regulation was agreed to as a result of an NGO campaign launched by Global Witness in 1998 to eliminate the trade in conflict diamonds and the international publicity surrounding it.

The diamond industry, through its representative bodies, has repeatedly stated its commitment to combating the trade in conflict diamonds and supporting the Kimberley Process. Yet, to date the diamond industry has not systematically monitored and assessed how self-regulation is working in practice throughout all sectors of the industry. Five years after the conflict diamond issue came to the forefront, a large proportion of the industry is still not taking the issue seriously and has instead focused its attention on a public relations campaign to try and make the issue go away. Some in the trade have demonstrated leadership on this issue and have made important contributions to creating and strengthening the Kimberley Process. However, they are in the minority.

One year after the industry agreed to implement self-regulation, Global Witness carried out an investigation in January 2004 to evaluate whether the industry was keeping its promises. The US diamond jewellery retail sector was chosen as a focus of the investigations because it accounts for more than a half of global diamond jewellery retail sales and therefore has a vital role to play in implementing the self-regulation and pressuring its suppliers to comply with it. The retail sector was

chosen because it is the public face of the industry and has a special responsibility to ensure that it can provide consumers with guarantees that diamonds are not from conflict sources.

Thirty retailers selling diamond jewellery in four cities on the east and west coasts of the United States were surveyed, ranging from independent shops to department stores to international luxury jewellery chains. The companies included some of the largest national and international jewellery retailers. At each store, two undercover investigators posed as shoppers and asked salespeople questions in order to ascertain whether the company was living up to the three promises given above. In the majority of cases, for each company, one store was visited once, except in three cases: for two national chains, two stores were visited for each of those chains; for one national department store, two salespeople were visited at two different jewellery counters. A formal letter from Global Witness was faxed and sent by mail to each company visited requesting information on its conflict diamond policy. Each letter was followed up with a telephone call.

It should be noted that the results of this survey cannot be extrapolated to the diamond industry or to the diamond jewellery retail sector as a whole. Instead, they provide an important insight into how the self-regulation is working and whether the industry is giving consumers valid assurances that diamonds are not coming from conflict sources.

The results present an abysmal picture of the US diamond jewellery sector's implementation of the self-regulation. **Twenty-five of the 30 companies surveyed have failed to inform Global Witness in writing about their policies on conflict diamonds and the system of warranties.** These include major players in the sector and some of the largest international jewellery companies. They include luxury international jewellers such

WHAT ARE CONFLICT DIAMONDS?

Conflict diamonds are diamonds that fuel conflict, civil wars and human rights abuses. They have been responsible for funding bloody conflicts in Africa, resulting in the death and displacement of millions of people.

Diamonds have also been used by terrorist groups such as al-Qaeda to finance their activities and for money-laundering purposes.

as Bulgari, Cartier, Harry Winston, Van Cleef & Arpels and Wempe, national department stores such as Federated Department Stores, Inc. (which owns Bloomingdale's and Macy's and Saks Fifth Ave.) and national jewellery chains such as Littman Jewelers and Whitehall Jewelers. Many of these companies are publicly held, have committed to ethical practices and have a responsibility, as the public face of the diamond industry, to uphold the highest standards by complying with self-regulation and pressuring suppliers to comply.

Given that many of these companies are members of jewellery trade associations that are promoting the self-regulation, it is likely that some of these companies have policies to implement the self-regulation but did not respond to Global Witness' written request for information about their policy on conflict diamonds. However, their failure to respond even if they do have a policy is an important measure of how seriously they take commitments to combating the trade in conflict diamonds and to supporting the Kimberley Process.

Only five companies informed Global Witness in writing that they have a policy on conflict diamonds and that they are implementing a system of warranties: Fortunoff, Pampillonia, Tiffany & Co., the Signet Group and Zale Corporation. However, some of these written responses did not provide details about specific measures companies were taking to ensure that they were not buying or selling conflict diamonds or how the system of warranties is being implemented. A warranty that is simply a piece of paper stating that diamonds are not from conflict sources is, of course, meaningless unless it is backed up by actions and policies to monitor that the statement is true. One company, Tiffany & Co., stood out because it outlined its policies to back up the warranty in detail and described how it has strengthened its sourcing procedures and control over its supply chain to prevent dealing in conflict diamonds.

The survey also found a low level of awareness among company employees about their companies' policies on conflict diamonds. **In only 4 stores out of the 33 stores visited were salespeople well-informed about their company's policy and the system of warranties.** This shows that companies have failed to implement a basic requirement of the self-regulation—to inform company employees about trade resolutions to combat the trade in conflict diamonds. If companies are failing to comply with this basic measure then what does this mean for other key actions the industry is supposed to be taking to implement the self-regulation?

The results indicate that some major US and global diamond jewellery retail companies are falling short in meeting the basic requirements of the self-regulation. Their irresponsible inaction is especially inexcusable for the large companies that have significant resources and have made commitments to tackling social and ethical

issues. It sends the wrong signal to those further up the supply chain (e.g. traders and jewellery manufacturers, who do not interact with the public in the course of daily business) that the self-regulation is unimportant and should not be taken seriously. It also shows that the industry self-regulation promises are more of a public relations manoeuvre rather than a serious and meaningful attempt to bring about long-term change.

In addition, the survey found that the main industry organisations that should be promoting and monitoring compliance have not taken adequate measures to assess and monitor whether the self-regulation is working in the US diamond jewellery sector. The World Diamond Council in particular, which is ultimately responsible for coordinating and monitoring the industry's efforts on a global level, has not worked adequately to ensure effective implementation and monitoring. It also suggests that the diamond industry is largely unable to give consumers substantial assurances that diamonds are conflict free—another main purpose of the self-regulation. The fact that the survey shows that many companies are not meeting the basic requirements highlights the need for both monitoring and penalising those companies that are found to be in breach of the requirements.

Given that the diamond industry is not implementing and monitoring the self-regulation in a meaningful way, Global Witness is urging governments participating in the Kimberley Process to take immediate action to directly regulate the diamond industry's compliance with the Kimberley Process. Major diamond jewellery retailers have a crucial role to play in these efforts by fully implementing the self-regulation and by promoting compliance throughout the industry by strengthening sourcing policies, developing standards for polishing and cutting factories, and devising an inspection system to evaluate the implementation of these standards. The World Diamond Council, as the major industry body coordinating these efforts, and other key industry bodies, including the International Diamond Manufacturers Association (IDMA), World Federation of Diamond Bourses (WFDB), International Jewellery Confederation (CIBJO), Jewelers of America and Jewelers Vigilance Committee, must show they take commitments to this issue seriously and substantially improve efforts to monitor implementation of the self-regulation in the US and around the globe.

The credibility and effectiveness of the Kimberley Process strongly depends on the diamond industry being held accountable for commitments made to stop the trade in conflict diamonds—anything less means that diamonds can continue to fuel conflict and human rights abuses.



RECOMMENDATIONS

Global Witness' survey and investigations show that major players in the US diamond jewellery retail sector are falling short in delivering on industry commitments made to combat conflict diamond trading. It also shows that the World Diamond Council, World Federation of Diamond Bourses, International Diamond Manufacturers Association, Jewelers of America and Jewelers Vigilance Committee haven't adequately monitored how the self-regulation is working in the US diamond jewellery sector and throughout the diamond pipeline. The industry has put far more energy into making public statements than in actually delivering on what it has committed to. The self-regulation, which is supposed to cover the entire diamond jewellery supply chain—from mine to point of sale to the consumer—is amounting to not much more than a public relations manoeuvre with little credibility behind it. The diamond industry's continued failure to effectively deliver on its commitments is not only undermining the Kimberley Process' efforts to prevent diamonds from fuelling war and human rights abuses but also threatens to undermine consumer confidence in a product that is highly valued by many for being a symbol of love.

Five years since the issue of conflict diamonds was exposed by a NGO campaign, Global Witness is gravely concerned that the diamond industry is still failing to deliver on its promises to stem the trade in conflict diamonds and to strengthen the Kimberley Process. The diamond industry's continued inability to seriously monitor itself demonstrates the need for governments to step in and directly regulate the trade. Strong government oversight of the industry is urgently needed to ensure that government diamond control systems are working effectively to keep out conflict diamonds. Without stronger government regulation of the industry, the Kimberley Process certificates will mean nothing more than the paper they are written on.

The following recommendations outline what actions the US diamond jewellery retail sector, the World Diamond Council and the diamond industry as a whole, and governments participating in the Kimberley Process should take to strengthen international efforts to stop conflict diamond trading.

Recommendations for the diamond jewellery retail sector:

- ◇ Fully implement the self-regulation and system of warranties, in a manner that goes far beyond simply requiring a warranty from suppliers. Diamond jewellery retailers should apply strict criteria in the selection of suppliers. Suppliers should have to prove they are implementing strong sourcing and auditing procedures to help prevent trading in conflict diamonds. Major US retailers should take the lead in these efforts and Jewelers of America and Jewelers Vigilance Committee, which have made efforts to promote compliance, should facilitate these efforts. Tiffany & Co.'s efforts to have more control over its sourcing of rough diamonds, implementing a chain of custodies that meets ISO standards, and application of environmental/social standards to polishing factories offers one possible model of what major diamond jeweller retailers and manufacturers should do.
- ◇ Develop standards for polishing/cutting factories to help ensure that conflict diamonds are not entering the legitimate diamond trade. This should involve developing an inspection system to evaluate the implementation of such standards among manufacturers as well as companies dealing in rough diamonds. The World Diamond Council should facilitate these efforts and establish a register of polishers and traders of polished diamonds that meet these standards.

Recommendations for the World Diamond Council:

- ◇ Carry out educational and outreach activities on a global level to ensure that all sectors of the diamond industry, including the retail sector, know about the self-regulation and are effectively implementing it. Attention should particularly be focused on reaching out to small and medium sized companies.
- ◇ Actively monitor the implementation of the self-regulation throughout the diamond pipeline. Those that are falling short in implementing the self-regulation should be expelled from the World Federation of Diamond Bourses and the International Diamond Manufacturers Association, as has been agreed to as part of the self-regulation. To do this, the World Diamond

Council should work with national umbrella trade organisations to require companies to report on how they are implementing and auditing the system of warranties and demonstrate how they are ensuring that the warranties are backed up by concrete policies and measures to prevent trading in conflict diamonds.

- ◇ Develop a common standard for effectively verifying compliance with the self-regulation and further work to ensure its adoption by all sectors of the industry.
- ◇ Ensure the effective implementation of anti-money laundering proposals, which will soon be required under the USA PATRIOT Act. Similar action should be taken by companies and sole traders throughout the entire diamond industry.
- ◇ Prepare a detailed report to the Kimberley Process before the next Annual Plenary Meeting outlining what the industry is doing to implement and monitor the self-regulation and how the self-regulation is helping to facilitate government efforts to track rough diamonds as is outlined in the Kimberley Process technical document. This should be done on a country-by-country basis.
- ◇ Work with the retail sector to develop standards for polishing/cutting factories as outlined above.

Recommendations for governments participating in the Kimberley Process:

- ◇ Require that the World Diamond Council submit a detailed report on its implementation of the industry self-regulation for the next Annual Plenary Meeting of the Kimberley Process in fall 2004. The report should detail how the self-regulation is being implemented and monitored on a country-by-country basis.
- ◇ Take urgent action to directly regulate the diamond industry's compliance with the Kimberley Process in order to ensure that diamonds do not fund conflict or terrorism. Companies should be required to develop effective management systems to ensure effective operation of the self-regulation and should address purchasing/diamond procurement, sales, staff training and internal audit and control procedures. Governments should carry out rigorous auditing and inspections of companies' implementation of the self-regulation to monitor compliance.



INTRODUCTION

Conflict diamonds have had devastating effects, funding bloody conflicts that have led to the death and displacement of millions of people. The role that such diamonds have played in fuelling conflict and civil war first came to the world's attention in 1998 when Global Witness exposed the role of diamonds in financing the civil war in Angola and led a coalition of non-governmental organisations (NGOs) to pressure both governments and the diamond trade to take concrete measures to combat the trade in conflict diamonds. In response to this campaign and to growing publicity surrounding the issue, governments, civil society and the diamond industry came together in May 2000 to create the Kimberley Process, an international governmental certification scheme aimed at stopping the trade in conflict diamonds. The Kimberley Process was fully implemented in August 2003 and currently has 61 countries as members.

Since 2000, the diamond industry, through its key representative bodies, has repeatedly stated publicly its commitment to combat the trade in conflict diamonds and to support the Kimberley Process. The diamond industry's commitment to the Kimberley Process is a system of self-regulation, which was supposed to be implemented in January 2003. The stated aim of this self-regulation is to track diamonds from point of mine to point of sale to help stop the trade in conflict diamonds and give consumers assurances that the diamonds they are buying have not been used to fund conflict.

To date, the diamond industry as a whole has done very little to monitor and assess how self-regulation is working in practice throughout all sectors of the diamond trade.¹ Five years after the conflict diamond issue came to the forefront, a large proportion of the industry is still in denial that there was ever a problem and has instead focused its attention on a public relations campaign to try and make the issue go away. It is important

to recognise that some in the trade have demonstrated leadership on this issue and have made important contributions to creating and strengthening the Kimberley Process. However, this is far from enough. A significant proportion of the trade has only given lip service to self-regulation and demonstrated a pattern of inaction, repeatedly failing to back any of its promises with meaningful actions. The diamond trade's continued negligence on this issue has serious consequences. It undermines the Kimberley Process and means that diamonds will continue to fuel conflicts and human rights abuses. It also points to a larger problem—the failure of the diamond industry to fundamentally change its structure in order to operate in a more transparent and socially responsible manner.

Given the diamond industry's failure to address this critical problem, Global Witness decided to carry out its own investigations to assess implementation of the self-regulation in the US diamond industry—with specific focus on how the US diamond jewellery retail sector is implementing the self-regulation. This document presents the findings of these investigations and explores whether the industry self-regulation is merely a public relations manoeuvre or a serious and meaningful attempt to bring about long-term change in how the industry operates. One year after the launch of the industry self-regulation, it is now time to assess how effectively it is working in practice and whether it is achieving its objectives.

The US was chosen because the US diamond jewellery retail sector represents over 50% of the global diamond jewellery market and, as the public face of the diamond industry, has a vital role to play in ensuring that self-regulation is adopted throughout the diamond jewellery supply chain. The level of compliance with the self-regulation in the diamond jewellery retail sector also provides an indicator of how it is being implemented throughout the industry. Are diamond jewellery retailers aware of the self-regulation and actually implementing it? Is the retail sector now able to give consumers some assurances that diamonds are not from conflict sources?

These investigations, which were carried out in January 2004, are not intended to provide a comprehensive assessment of the diamond industry's compliance with the self-regulation but instead are meant to provide a snapshot of what is going on in the industry. However, they demonstrate how the US diamond jewellery retail sector has failed to take even basic measures to implement self-regulation and how the World Diamond Council, the organisation ultimately responsible for carrying out industry-wide education and monitoring of the self-regulation, is failing to adequately deliver



Alluvial diamond deposits are often located in remote areas, making them difficult to control and protect from attack and theft.

on this. The investigations also show that some of the leading global and US diamond jewellery retailers, which should be exhibiting leadership on this issue and promoting compliance throughout the supply chain, have not even done the minimum to meet the self-regulation requirements.

This briefing document presents the results of Global Witness' investigations, an analysis of the findings, and recommendations on what should be done by governments and the industry to strengthen the self-regulation and the Kimberley Process. It is organised in the following manner:

- ◇ A background to conflict diamonds
- ◇ A background to the Kimberley Process
- ◇ The diamond industry's obligations to the Kimberley Process
- ◇ The US diamond industry and the US diamond jeweller retail sector
- ◇ The results and analysis of Global Witness' survey and investigations on implementation of self-regulation in the US diamond jewellery retail sector.

Recommendations for what the diamond industry and governments should do to combat the trade in conflict diamonds and to strengthen the Kimberley Process (See previous section, p. 4).

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A BACKGROUND TO CONFLICT DIAMONDS

Diamonds, highly valued by many as symbols of love and purity, have been responsible for funding bloody conflicts in Africa, resulting in the death and displacement of millions of people. Conflict diamonds have had devastating impacts in Angola, Sierra Leone, Liberia and the Democratic Republic of the Congo (DRC) (see Box on “The Devastating Impacts of Conflict Diamonds”). Rebel armies, warlords, unscrupulous diamond traders and terrorists have exploited the small size and high value of diamonds, the lack of trade regulation and the ease with which diamonds can be obtained from alluvial mining areas.²

In 1998, the role that rough diamonds have played in fuelling conflict came into the spotlight when Global Witness published its report *A Rough Trade*, focusing on how diamonds had financed UNITA, the rebel movement in Angola.³ The report outlined how this highly valuable commodity had been used by UNITA to buy arms and munitions, pay and feed troops and keep strategic allegiances alive. The lack of accountability and transparency within the diamond trade enabled UNITA’s diamonds to reach the major international markets. The complicity of the diamond industry was undeniable, and the international scrutiny that followed made it increasingly difficult for the industry to continue to deny its links to fuelling a civil war that cost at least 500,000 lives. The campaign on conflict diamonds also drew attention more broadly to how the trade in conflict resources perpetuates violent conflicts and insecurity and the lack of accountability for those that are responsible for contributing to this trade.

Diamonds and terrorism

Diamonds have not only fuelled civil war but have also financed terrorism. In November 2001, *The Washington Post* exposed the role of the corrupt regime of President Charles Taylor in Liberia in facilitating access for al

THE DEVASTATING IMPACTS OF CONFLICT DIAMONDS

ANGOLA

- ◆ Civil war: 1975–2002.
- ◆ Cost at least 500,000 lives. Thousands suffered maiming by landmines.
- ◆ Rebel group UNITA controlled 60–70% of Angola’s diamond production.
- ◆ UN Security Council diamond sanctions imposed in 1998, lifted in 2002.

DRC

- ◆ Civil war: 1998–2003 with continuing insecurity in north.
- ◆ Cost at least 3.3 million lives.
- ◆ Rebel groups supported by neighbouring countries competed for resource-rich diamond areas in north.

SIERRA LEONE

- ◆ Civil war: 1991–1999.
- ◆ Cost at least 50,000 lives. Civilians suffered killings, mutilation, rape, torture and abduction.
- ◆ Rebel group Revolutionary United Front was mining between \$25 and \$125 million worth of diamonds annually.
- ◆ UN Security Council diamond sanctions put in place in 2000, lifted in 2003.

LIBERIA

- ◆ Civil war: 1989-1997, 2000–2003 with continuing insecurity outside capital.
- ◆ Cost at least 200,000 thousand lives. Widespread human rights violations committed by all sides and 1 million displaced.
- ◆ Conduit for RUF diamonds and arms imports.
- ◆ UN Security Council diamond sanctions put in place in 2001, reapplied in 2003 and due for review in May 2004.

SOURCES FOR “THE DEVASTATING IMPACTS OF CONFLICT DIAMONDS”

Sources on Angola: Global Witness, ‘A Rough Trade: The Role of Companies and Governments in the Angolan Conflict,’ December 1998; UNSC resolution 1448 (2002) and UNSC resolution 1173 (1998). *Sources on DRC:* Commission on Human Rights, 59th session, Agenda item 9 E/CN.4/2003/43, 15 April 2003, ‘Question of the violation of human rights and fundamental freedoms in any part of the world: Report on the situation of human rights in the Democratic Republic of the Congo’, submitted by Special Rapporteur, Ms. Lulia Motoc, in accordance with Commission on Human Rights resolution 2002/14; International Rescue Committee, ‘Mortality in the Democratic Republic of Congo: Results from a Nationwide Survey’ conducted September–November 2002, reported April 2003; UNSC 12 April 2003 S/2001/357, ‘Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo’. *Sources on Sierra Leone:* Commission on Human Rights, 56th session, Item 9 of the Provisional agenda E/CN.4/2000/31, 22 December 1999, ‘Question of the violations of human rights and fundamental freedoms in any part of the world’; Partnership Africa Canada, ‘Diamond Industry Annual Review 2004, Sierra Leone’ p. 3; UNSC resolution 1306 (2000). *Sources on Liberia:* Commission on Human Rights, 59th session, Item 4 of the provisional agenda E/CN.4/2004/5 ‘Report of the United Nations High Commissioner for Human Rights and Follow-Up to the World Conference on Human Rights’, 12 August 2003; ‘Background Note: Liberia’, US Department of State, 2003; UNSC resolution 1343 (2001) and UNSC resolution 1459 (2003).

Qaeda operatives into Sierra Leone and Liberia to launder cash into diamonds.⁴ A detailed investigation by Global Witness and a subsequent Global Witness report *For a Few Dollars More* showed that al Qaeda had developed a strategy for using diamonds to finance local cells in East Africa as early as 1993.⁵ It also exposed how al Qaeda devised and carried out a ten-year strategic move into the unregulated diamond trade in East and West Africa, detailing how al Qaeda easily infiltrated diamond-trading networks. Most within the diamond industry denied the connections between diamonds and terrorism and, as with the initial reaction to conflict diamonds, have continued to deny the problem and failed to take any concerted action. A recent report by the US General Accounting Office released in November 2003, found that “terrorists use various alternative financing mechanisms to earn, move, and store their assets.”⁶ The report examined five commodities—illicit drugs, weapons, cigarettes, diamonds and gold. Only diamonds were found to have the ability to earn money, move money and store money.⁷

The connections between diamonds and money laundering have also received increasing attention as part of broader efforts to halt the flow of money to terrorists. The 2003 International Narcotics Control Strategy Report (INCSR) from the US State Department has cited the diamond trade as being vulnerable to money laundering.⁸ Similarly, the Financial Action Task Force (FATF), which is an arm of the Organisation for Economic Cooperation and Development (OECD), is also investigating the link between diamonds, organised crime, terrorism and money laundering.⁹



A BACKGROUND TO THE KIMBERLEY PROCESS

The publicity surrounding the international NGO campaign that exposed the role of diamonds in funding conflicts and destruction put the diamond industry, previously shrouded in secrecy, into the international spotlight. Growing international pressure demanded that governments and the diamond trade take action to eliminate the trade in conflict diamonds. In response, in May 2000, the major diamond trading and producing countries, representatives of the diamond industry and of NGOs convened in Kimberley,

The Washington Post

THURSDAY, MAY 15, 2003

Liberian Is Accused of Harboring Al Qaeda

By DOUGLAS FARAH
Washington Post Staff Writer

The head of Sierra Leone's international tribunal accused Liberian President Charles Taylor yesterday of harboring al Qaeda terrorists and assassinating a former lieutenant who was a fugitive from the U.N.-backed court.

David Crane, the American prosecutor for the Special Court on Sierra Leone, said in an interview that Taylor poses a threat not just to West Africa but to the rest of the world. Crane, a former inspector general at the Pentagon and assistant general counsel for the De-



Artisanal diamond mine in Sierra Leone.

South Africa to determine how to tackle the conflict diamond problem. The meeting, hosted by the South African government, was the start of an important and often contentious three-year negotiating process to establish an international diamond certification scheme. A key motivation for some countries and the diamond industry to take part in this process was a growing recognition that the conflict diamond issue could seriously damage the diamond industry's integrity and undermine consumer confidence if not addressed. African

producing countries were particularly concerned about consumer perceptions of African diamonds and how this could affect their ability to compete with diamonds from Russia, Canada and other countries.

Over the next three years, the Kimberley Process Certification Scheme (KPCS) was formed. In November 2002 it was endorsed by participating governments, the diamond industry and NGOs and was finally launched in January 2003.¹⁰ The Kimberley Process, which is a political agreement, was also endorsed by the United Nations General Assembly (UNGA) and the United Nations Security Council (UNSC).¹¹ Currently, 61 countries are members.¹² There was a six-month delay in the full implementation by all countries because some were slow in passing national laws and regulations. The scheme was fully up and running by July 2003.

The Kimberley Process is aimed at not only halting and preventing the trade in conflict diamonds, but also in protecting the legitimate diamond trade. Representatives of NGOs and the diamond trade are Observers in the process and have played an active role in the negotiations and the implementation. Global Witness, Partnership Africa Canada (PAC) and other NGOs have had an unusual level of involvement in developing and building support for the scheme, helping to write the Kimberley Process Technical Document and educating participants about the issue.

How does the Kimberley Process work?

The Kimberley Process, which only applies to rough diamonds and not polished diamonds, requires that all participating countries agree only to trade in rough diamonds with other participating countries and to establish national import/export control regimes to keep conflict diamonds out of the legitimate diamond trade. Each country must certify (using a Kimberley Process certificate) that all of its rough diamond exports are conflict-free and must only allow rough diamond imports from other participating countries that are certified as conflict-free. The certification scheme is not just based on certificates but relies upon each participant implementing an effective diamond control system to prevent conflict diamond trading. The Kimberley Process defines conflict diamonds as: “CONFLICT DIAMONDS means rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments as described in relevant United Nations Security Council (UNSC) resolutions insofar as they remain in effect, or in other similar UNSC resolutions which may be adopted in the future, and as understood and recognised in United Nations General Assembly (UNGA) Resolution 55/56, or in other similar

UNGA resolutions which may be adopted in future.”¹³ The scheme certifies parcels of diamonds, not individual diamonds.

Countries must meet several minimum requirements in order to participate:

- ◇ Pass and implement the necessary laws or regulations to implement the scheme and keep out conflict diamonds
- ◇ Ensure that exports and imports of rough diamonds are in tamper resistant containers
- ◇ Collect, maintain and exchange official statistical data on trade and production of rough diamonds
- ◇ Produce a Kimberley Process certificate that meets the requirements outlined in the agreement (e.g. carat weight, value, tamper and forgery resistant, country of origin)¹⁴

The effectiveness of countries' Kimberley Process regulations will also depend on actions taken by the diamond industry to keep conflict diamonds out of the legitimate diamond trade. After significant pressure from NGOs, the diamond industry agreed to a system of self-regulation that is aimed at helping government authorities fully trace rough diamond transactions. This is described in more detail in the section on the diamond industry's obligations to the Kimberley Process.

Weaknesses of the Kimberley Process

The Kimberley Process has several major weaknesses in the current agreement that threaten the credibility and effectiveness of the entire scheme. One serious flaw is the lack of provision for a systematic, impartial review of all participants' diamond control systems to assess how they are working in practice. Throughout the negotiations to create the Kimberley Process, Global Witness and other NGOs pressed hard for regular monitoring to be adopted by governments. However, due to strong resistance from governments, regular monitoring was not agreed to as part of the formal agreement.

In response to continued pressure from NGOs, the World Diamond Council also pushed for regular monitoring in October 2003. The President and/or Chief Executive Officers' of major diamond jewellery retailers, including JC Penney, Sterling (owned by the Signet Group), Tiffany & Co., and Zale Corporation wrote to the International Diamond Manufacturers Association about the need to consider monitoring and other measures for the credibility of the Kimberley Process.¹⁵ At the Kimberley Process Plenary in Sun City, South Africa, held in October 2003, governments, led by the European Commission and South Africa, did take steps to address this issue by adopting a voluntary peer review system.¹⁶ While the peer review system represents

significant progress, the effectiveness of the scheme will depend on all countries being reviewed in a thorough and effective manner at least every four years.

Another weakness is the complete lack of penalties or sanctions for those member countries that are found in violation of the scheme, a major impediment to ensuring that all countries participating in the scheme have effective systems in place. There are no provisions for removing countries that are found to be non-compliant. The industry self-regulation is another major weakness that must be addressed, which will be outlined in the next section.

The diamond industry's obligations to the Kimberley Process

The success of the Kimberley Process does not only depend on governments—the diamond industry also has a crucial role to play to ensure that diamonds never again fund conflict. When Global Witness first exposed the problem in December 1998, the diamond industry ignored and then denied the problem. For example, De Beers first dismissed the problem, arguing that the trade in conflict diamonds was a very small amount of the overall trade. In a speech given on 26 June 2000, Nicky Oppenheimer, Chairman of De Beers said: “In the current debate about conflict diamonds, for example, the irresponsible and graphic warnings of a possible diamond consumer boycott, the continuous repetition of grossly inflated estimates of the scale of the trade in so-called conflict diamonds and the patently absurd claim that Africa’s natural resources have proved a curse rather than a blessing or that diamonds cause wars are unlikely to resolve the problems of Angola or Sierra Leone or other dysfunctional societies.”¹⁷

As the issue gained more prominence internationally and as NGOs continued their campaigning efforts, the diamond trade came under increasing pressure to act. At the 29th World Diamond Congress meeting held in July 2000, the diamond industry announced actions that it claimed would address the conflict diamond problem. All sectors of the global diamond trade were represented at this meeting, including De Beers and the two major diamond industry organisations—WFDB and IDMA.¹⁸ A resolution was adopted outlining measures that the industry claimed would be taken to combat the trade in conflict diamonds. One measure was that every diamond organisation should adopt an ethical code of conduct regarding conflict diamonds and that failure to adhere to the code would result in expulsion from the IDMA and the WFDB.¹⁹

The Antwerp 2000 Resolution also created the World Diamond Council, to coordinate the entire dia-

mond industry’s response to the conflict diamond issue and to represent the diamond industry at the Kimberley Process meetings.²⁰ The World Diamond Council is supposed to develop industry-wide strategies for addressing the issue and work to promote and monitor their implementation throughout the diamond industry. According to the World Diamond Council website, “The ultimate mandate for the World Diamond Council is the development, implementation and oversight of a tracking system for the export and import of rough diamonds to prevent the exploitation of diamonds for illicit purposes such as war and inhumane acts.”²¹ To date, Global Witness believes that the World Diamond Council has failed to adequately promote implementation of the code of conduct and monitor whether companies are complying with it.

Despite passing these measures, the diamond industry was still very reluctant to take concrete actions to address the problem. NGOs had to continue their international campaigning and lobbying efforts to put pressure on the industry before crucial Kimberley Process and industry meetings. In September 2001, over 120 human rights, development and religious NGOs around the world called on the diamond trade to stop the trade in conflict diamonds and commit itself to verifiable controls.²²

In response to continued pressure, the World Diamond Council participated in the negotiations to create and implement the Kimberley Process, and committed to a number of concrete measures to support the Kimberley Process on behalf of the entire industry. At this meeting, IDMA and WFDB adopted a resolution stating that they would “create the following voluntary system of industry self-regulation in order to comply and support government undertakings of the Kimberley Process”. The components of this resolution are outlined in the Box on “What the Diamond Industry Has Signed Up To”.²³

The industry announced that the self-regulation would be implemented in January 2003, but no specifics were provided on how implementation would be measured and monitored. The purpose of the self-regulation is to track diamonds *from the mine to point of sale* to prevent conflict diamonds from slipping into the legitimate trade. This means that both rough and polished diamonds are covered, unlike the Kimberley Process which only covers rough diamonds. The diamond industry, which had become increasingly worried that it would lose customers due to the publicity surrounding the conflict diamond issue, made the self-regulation apply to both rough and polished diamonds with the stated aim of giving customers reassurances that they were not buying conflict diamonds. The self-

regulation is specifically included in the Kimberley Process agreement as a mechanism to help governments to track rough diamond transactions. The Kimberley Process Technical Document states that:

“Participants will understand that a voluntary system of industry self-regulation . . . will provide for a system of warranties underpinned *through verification* [Global Witness emphasis] by independent auditors of individual companies and supported by internal penalties set by industry, which will help to facilitate the full traceability of rough diamond transactions by government authorities.”²⁴

The self-regulation was taken seriously enough to be referred to in a United Nations Security Council resolution that endorsed the Kimberley Process.²⁵ This means that governments should exercise adequate oversight over how companies dealing in rough diamonds (the Kimberley Process only covers rough diamonds) are implementing the self-regulation.²⁶ Despite receiving such high-level attention, both the diamond trade and governments have given very little focus to ensuring that the self-regulation is being implemented in a meaningful and effective way. This is discussed in the next section.

What does the self-regulation involve?

The self-regulation involves a system of warranties and a code of conduct. All buyers and sellers of rough and polished diamonds are required to make the following statement on all invoices:

“The diamonds herein invoiced have been purchased from legitimate sources not involved in funding conflict and in compliance with United Nations Resolutions. The seller hereby guarantees that these diamonds are conflict free, based on personal knowledge and/or written guarantees provided by the supplier of these diamonds.”²⁷

All industry organisations and their members adopted a code of conduct outlining several measures that should be taken including trading only with companies that include warranty declarations on their invoices, not to buy from “suspect or unknown sources of supply and/or that originate in countries that have not implemented the Kimberley Process Certification Scheme”, not knowingly buying or selling conflict diamonds and to inform all company employees about these industry resolutions as well as government regulations on conflict diamonds (See Box on “What the Diamond Industry has Signed Up To”). The self-regulation sets out penalties for those that are found to be violating the self-regulation—“each member organisation shall expel and publicize the expulsion of any members that, after a due process investigation by the member’s trade organization



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ActionAid, Amnesty International and Global Witness campaigners, along with a Marilyn Monroe look-alike, demonstrated before the World Diamond Congress in October 2002 to press the diamond trade to take strong measures to curb the trade in conflict diamonds.

has been found to be in violation of the above resolution”.²⁸ The removal of national umbrella trade organisations from WFDB or IDMA can damage the reputation of those companies that are members of the trade organisations, and consequently adversely affect business. Shmuel Schnitzer, President of the WFDB, states: “Those who intentionally mask the true origin of a diamond by a false statement are likely to have their trading privileges suspended and possibly withdrawn by their own bourse, and all others who are affiliated to the WFDB.”²⁹ The code of conduct also requires that members publicise the names of companies or individuals that have been found in violation of the Kimberley Process requirements.³⁰

In February 2003, after NGO pressure, the World Diamond Council published an “Essential Guide to Implementing the Kimberley Process” which is intended to educate all sectors of the diamond industry about what they should be doing to comply with the self-regulation. The guide outlines how the self-regulation should not only support the Kimberley Process but also “provide the means by which consumers might more effectively be assured of the origin of their diamonds”.³¹ It states that “each company trading in rough and polished diamonds is obliged to keep records of the



warranty invoices issued when buying or selling diamonds”, and that “This flow of warranties in and warranties out must be audited and reconciled on an annual basis by the company’s own auditors.”³²

Approximately 5,000 copies of the Guide were disseminated to key national and international industry associations (IDMA, WFDB, members of the World Diamond Council) for distribution to members and presentations were given at some global diamond meetings/conferences and jewellery trade shows about the Kimberley Process.³³

However, there has been inadequate follow-up by the World Diamond Council to assess whether industry associations across the globe have distributed the Guide to members, whether the Guide is being used and whether they are monitoring whether members are implementing the self-regulation. CIBJO, the international

jewellery confederation, is the main international organisation that should be promoting compliance with the self-regulation within the international diamond jewellery sector globally. CIBJO recently passed a resolution expressing support of the self-regulation and also distributed the Guides, but has done very little to monitor implementation of compliance with the self-regulation throughout the retail sector on a global level.

The guide provides some specific advice for the diamond jewellery retail sector (which should include a range of retailers, including jewellery chains, department stores, and independents) and states that “retailers have a crucial role to play in helping to ensure that the System of Warranties is both employed and effective”.³⁴ It says that diamond jewellery retailers should:

- ◇ Require that all of their suppliers provide warranties for all polished diamonds

WHAT THE DIAMOND INDUSTRY HAS SIGNED UP TO

JOINT WFDB AND IDMA RESOLUTION SUPPORTING THE KIMBERLEY PROCESS

The WORLD FEDERATION OF DIAMOND BOURSES and the INTERNATIONAL DIAMOND MANUFACTURERS ASSOCIATION, recognizing that the trade in conflict diamonds is a matter of serious international concern being addressed by governments, industry and civil society in the Kimberley Process, and mindful of the unacceptable suffering of innocent people, unanimously adopted the following resolution at their joint meeting in London on the 29th October, 2002:

(A) To meet the challenge of preventing the trade of conflict diamonds, both organizations, and their constituent and affiliated members, hereby create the following voluntary system of industry self-regulation in order to comply and support government undertakings of the Kimberley Process.
(B) Each member organization undertakes to require its members to:

SYSTEM OF WARRANTIES:

- (i.) Make the following affirmative statement on all invoices for the sale of rough diamonds, polished diamonds and jewelry containing diamonds. “The diamonds herein invoiced have been purchased from legitimate sources not involved in funding conflict and in compliance with United Nations resolutions. The seller hereby guarantees that these diamonds are conflict free, based on personal knowledge and/or written guarantees provided by the supplier of these diamonds.”

CODE OF CONDUCT:

- (ii.) Not to buy any diamonds from firms that do not include the above statement on their invoices.
- (iii.) Not to buy any diamonds from suspect or unknown sources of supply and/or that originate in countries that have not implemented the Kimberley Process International Certification Scheme.
- (iv.) Not to buy diamonds from any source that after a legally binding due process system has been found to have violated government regulations restricting the trade in conflict diamonds.
- (v.) Not to buy diamonds in or from any region that is subject to an advisory by a governmental authority that conflict diamonds are emanating from or are available for sale in such region unless such diamonds have been exported from such region in compliance with Kimberley Process requirements.
- (vi.) Not to knowingly buy or sell or assist others to buy or sell conflict diamonds.
- (vii.) Assure that all company employees that buy or sell diamonds within the diamond trade are well informed regarding trade resolutions and government regulations restricting the trade in conflict diamonds.

(C) Each member organization shall expel and publicize the expulsion of any members that, after a due process investigation by the member’s trade organization has been found to be in violation of the above resolutions.

(D) In coordination with and upon the advice of governmental authorities each member organization shall publicize within the diamond trade

- (i.) All government regulations governing the flow of conflict diamonds and all advisories from governments regarding the trade of conflict diamonds.
- (ii.) The names of firms and/or individuals that after legally binding due process have been found to be guilty of violating Kimberley Process requirements (including government regulations) applicable to the trade in conflict diamonds.
- (iii.) The names of all regions and locations that governmental authorities advise that conflict diamonds are emanating from or available for sale.

(E) Each member organization shall assist and provide technical support regarding, government regulations and trade resolutions restricting the trade in conflict diamonds to all legitimate parties in need of such information or expertise.

- ◇ Inform suppliers in writing that they will require a warranty
- ◇ Retain these warranties for at least five years

For companies selling diamonds or diamond jewellery that pre-dates 1 January 2003 (before the self-regulation was implemented), the Guide recommends using a warranty statement indicating this.³⁵ Auditing of records of warranties for retailers is not specifically highlighted in the Guide's compliance checklist for diamond jewellery retailers, although it is mentioned earlier in the document that the flow of warranties in and out should be audited by a company's own auditors. Global Witness believes that auditing should be done by the retail sector, as well as all other sectors throughout the diamond pipeline.

Is the self-regulation good enough?

Global Witness believes that the current implementation of the self-regulation is far from adequate to effectively keep out conflict diamonds and to support the Kimberley Process. The danger is that the self-regulation only amounts to a statement on an invoice that is not verifiable and is not backed up by any policies to prevent the purchase of diamonds from conflict sources. In order to be credible and effective, it is crucial that all sectors of the diamond pipeline, including the retail sector, implement management systems to ensure effective operation of policies to prevent dealing in

conflict diamonds, which address purchasing/diamond procurement, sales, staff training and internal audit and control procedures. These management systems should be certified through third-party independent auditing.³⁶ Yet there has been inadequate follow-up done by the World Diamond Council, WFDB, IDMA and other trade organisations to monitor whether companies are implementing self-regulation, so how can anyone have faith that the system has credibility? The diamond jewellery retail sector, in particular, should not simply require suppliers to provide the warranty statement but closely scrutinise suppliers' sourcing policies to ensure that they are adequate in keeping out conflict diamonds. Retailers should know where their suppliers are buying from and should require them to demonstrate what actions they are taking to prevent dealing in conflict diamonds. They should also know where their manufacturers are getting rough diamonds from and require that effective systems are in place in polishing centres to ensure that conflict diamonds are not being purchased. Large retailers in particular have a special responsibility to develop and implement effective systems.



THE US DIAMOND INDUSTRY AND THE DIAMOND JEWELLERY RETAIL SECTOR

This section will provide an overview of the US diamond industry and the diamond jewellery retail sector, US implementation of the Kimberley Process, the US diamond industry actions regarding the Kimberley Process and the USA PATRIOT Act and consumer awareness about the conflict diamond issue.

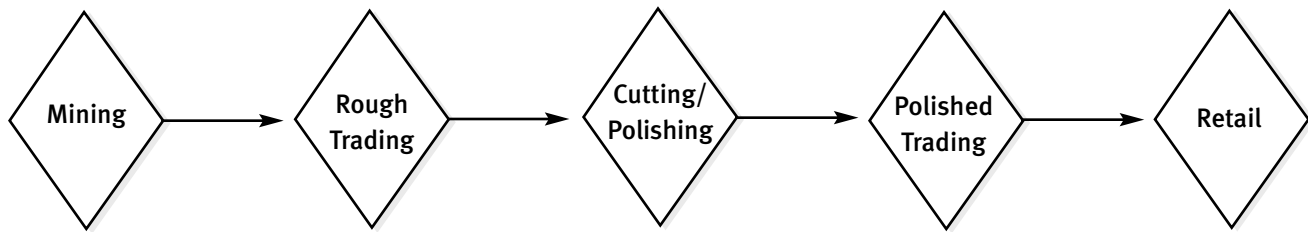
US diamond industry and diamond jewellery industry

The US is the most important player in the diamond jewellery business because it is by far the largest market for diamond jewellery in the world. It accounts for over half of global diamond jewellery retail sales, amounting

to more than \$27 billion in 2002.³⁷ Therefore, the US diamond industry, especially the retail sector, has a vital role to play in implementing the self-regulation and in pressuring its suppliers to comply with the self-regulation. The purchasing power of the retail sector will affect diamond companies all over the world and promote compliance throughout the entire diamond pipeline.

The US role is far from limited to the retail sector. The US diamond industry also serves as a major centre for cutting and distributing high-value diamonds and supplying polished diamonds to wholesalers and retailers globally. The US imported \$11.5 billion worth of polished diamonds in 2002. It imports polished diamonds from three main sources: Israel, India, and Belgium.

The Diamond Pipeline—tracing a diamond from point of mine to point of sale to the consumer



New York is the major hub for diamond related activities in the US, playing an influential role in the international diamond and jewellery trade.³⁸

The US diamond jewellery retail sector is varied and includes small independent stores, department stores, national speciality jewellery chains and international luxury jewellery retailers.³⁹ Zales is the largest speciality jewellery retailer in the US and the Signet Group, owner of Kay Jewelers, is the second largest in the US.⁴⁰

US implementation of the Kimberley Process

The US is a Participant of the Kimberley Process. In April 2003, the Clean Diamond Trade Act was passed by the US Congress and signed by President Bush. Under this Act, the import and export of rough diamonds into the US is prohibited unless it has been controlled through the Kimberley Process.⁴¹ The Departments of State and Treasury were appointed to coordinate an inter-agency working group to implement the law, which came into effect on 30 July 2003.⁴² Those who are found in violation of the Act's requirements face civil and criminal penalties that include fines and imprisonment of up to 10 years.⁴³ The Kimberley Process Authority, which was set up and is being run by officials from US trade associations, including the Diamond Dealers Club and the Jewelers Vigilance Committee, is responsible for issuing Kimberley Process certificates for exports of rough diamonds and reporting this to the US government.

All exporters of rough diamonds are required to file export information through the US government's Automated Export System, which is then validated by the government through the issuance of an Internal Transaction Number.⁴⁴ It is not clear how the US government oversees and monitors the Kimberley Process Authority. The US approach of having trade associations in charge of issuing Kimberley Process certificates raises serious concerns—there must be adequate US government oversight of the diamond trade in order for the system to be effective. The details of how the Kimberley Process Authority is working and government oversight

of the Authority should be provided in the State and Treasury Department's annual report on implementation of the Clean Diamond Trade Act, that is due to be submitted to the US Congress in April 2004 and to the Kimberley Process at the end of March 2004.

US diamond industry and the self-regulation

The US diamond industry has announced that it is implementing self-regulation and systems of warranties as required by IDMA and WFDB. Jewelers of America and the Jewelers Vigilance Committee have carried out some educational activities about the self-regulation. Jewelers of America claims that it is educating members of the US jewellery retail sector to raise awareness of and promote compliance with the self-regulation. Jewelers of America, whose slogan is "Buy with Confidence from Your Jewelry Professional", is a national association for retail jewellers with more than 10,000 members throughout the US. Its members consist of a range of companies, from large retailers to small, independent shops. Jewelers of America states that its aim is to "provide consumers with information and education about fine jewelry". It also describes itself as "an advocate for high social, ethical and environmental standards in the jewelry trade".⁴⁵ Jewelers Vigilance Committee, another industry trade association, states that it works to "maintain the jewelry industry's highest ethical standards" and "is considered the industry's guardian of ethics and integrity, and is a resource for both trade and consumers".⁴⁶

Jewelers of America and Jewelers Vigilance Committee have disseminated information about the industry self-regulation to its members through the web site and have given presentations at some key jewellery trade shows and at Jewelers of America and Jewelers Vigilance Committee's seminars, conferences and meetings. Rule 10 in Jewelers of America's Rules of Professional Conduct and Business Practices outlines how members are required to notify vendors that they will not knowingly deal in conflict diamonds and educate their staff about the issue.⁴⁷ Jewelers of America's

THE GREATEST SHOW ON EARTH

Below is what representative bodies of the diamond industry and the diamond jewellery retail sector have said they are doing to combat conflict diamonds and what Global Witness was told by salespeople in jewellery stores in response to questions about policies on conflict diamonds. What is the real story?

“Individual retailers—and the brands they feature—are now held publicly accountable for the practices of suppliers all the way back up the supply chain, including conditions surrounding the fabrication of products and the extraction of gemstones and precious metals from the earth. Thus, going forward, trade relationships between retail jewelers and their vendors will require a more explicit and secure foundation for trust than perhaps traditional industry practices have required in many cases.”

—*Matt Runci, President and Chief Executive Officer of Jewelers of America, 19 February 2004*⁴⁸

“But there is a certificate of authenticity that we can give to you.” (response when asked if company had a policy on conflict diamonds)

—*Salesperson at Neiman Marcus, Washington, DC, 12 January 2004*

“Given the importance of the U.S. market to the diamond industry, full compliance with international agreements to protect the legitimate trade from conflict diamonds is imperative.”

—*Eli Izhakoff, Chairman and CEO of World Diamond Council, 29 July 2003*⁴⁹

“But diamonds are totally recyclable . . . There is no way of tracking diamonds. They are not like Rolex watches that have serial numbers . . . I can't tell you where any of these come from.”

—*Independent jeweller, Santa Monica, California, 7 January 2004*

“Effectively, we will be guaranteeing that the diamonds are conflict free, based on the fact that we know first hand that they once were part of an officially certified parcel, or because of written declarations stating this to be case, which we received from those who sold the diamonds to us. This is not a responsibility that should be taken lightly . . . The teeth that we at the WFDB are able to make available to the Kimberley Process Certification Scheme provide it with a significant boost in terms of its effectiveness.”

—*Shmuel Schnitzer, President of the World Federation of Diamond Bourses, December 2002 about the industry's role in the Kimberley Process.*⁵⁰

“I have never heard of it. Fake diamonds, yes?”

—*Independent jeweller in New York's Diamond District, 14 January 2004*

“Let me repeat what we in the industry have said many times before. Although the trade in conflict diamonds is unquestionably small, just one diamond dealt with in such a way, is one too many. The diamond industry has clear moral and commercial reasons for wanting to rid the world of the trade in conflict diamonds.”

—*Gary Ralfe, De Beers managing director, addressing the World Diamond Council in London, January 2001*⁵¹

“We have our own place, you know, to buy the diamonds. We are known to buy the diamonds from the best place. That's why people pay to have the Bulgari name on it.”

—*Salesperson at Bulgari, Rodeo Drive, Los Angeles, California, 7 January 2004*

Board of Directors recently adopted a Supplier Code of Conduct, which they state will improve consumer confidence in jewellers (see Box on “The Greatest Show on Earth” for public statements on this).⁵² Jewelers of America states that many of these efforts are focused on promoting ethical behaviour along the entire jewellery pipeline. It has introduced an incentives programme that industry officials say will help promote compliance

with the self-regulation. This programme is intended to provide additional funds for trade education to every state jewellery association that obtain written commitments from all of its members to use the warranty.⁵³ Despite these efforts, it is clear that much more needs to be done to get retailers not only to use the system of warranties but also actively promote compliance with the self-regulation throughout the diamond pipeline.

This is outlined in the section on the results of Global Witness' survey and investigations.

The USA PATRIOT Act

The USA PATRIOT Act, which is an acronym for "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism", was signed into law by President George W. Bush on 26 October 2001. This law is intended to prevent terrorist acts in the US, and is relevant to the jewellery industry in its provisions to curb money laundering. The basic concept of the PATRIOT Act is for "financial institutions" to establish programmes to ensure that they know their business partners and that they monitor all transactions to ensure they are legitimate, thereby preventing business with those with criminal intent. Under the Act, the Treasury Department is to require "financial institutions", including the jewellery industry, to "create, implement and test anti-money-laundering programs" and contains a specific section devoted to gem and jewellery dealers. Following the passing of the law, the Department of Treasury issued a proposed rule in February 2003 for public comment and the final rule is expected to be issued over the coming months. Once finalised, the rule will come into effect and those affected will be given 90 days to comply.⁵⁴

The PATRIOT Act has huge implications for the diamond jewellery industry, an industry that has traditionally been extremely secretive and prefers to use cash. The Act obliges financial institutions to four things: they must have a written anti-money-laundering program, an employee must act as a compliance officer, training must be provided for employees about the programme, and there must be "independent testing" of the programme to ensure it is operating effectively and appropriately.⁵⁵ The Act is flexible, providing general guidelines rather than prescriptive orders, to accommodate the wide variety of businesses affected by the law. "Dealers" selling less than \$50,000 a year in gems or jewellery, are exempt.

The PATRIOT Act has been strongly criticized by civil liberties groups in the US, who argue that it undermines rights to free speech, free association, and the right to privacy, providing unprecedented powers to the government to spy on its citizens.⁵⁶ While recognising these concerns, the anti-money laundering sections could have a power-

ful effect in cracking down on the use of diamonds for terrorism and other illicit activities. The PATRIOT Act has significant implications for the diamond industry across the globe and may compel those companies that wish to trade with the US to take measures to ensure that their goods are not used for money-laundering purposes.⁵⁷ Anti-money laundering initiatives are not just limited to the US but are also being adopted by other countries. The FATF has issued Eight Special Recommendations on Terrorist Financing outlining what governments should do to combat terrorist financing.⁵⁸

Ben Kinzler, executive director of the Diamond Manufacturers and Importers Association of America (DMIAA) recently delivered a tough message to diamond-taires in relation to the PATRIOT Act. Highlighting how gems and jewellery are a "convenient vehicle" for money laundering, he stated that "if we do not address the association of terrorism and diamonds, it will seriously undermine consumer confidence in this industry".⁵⁹ He



GUARANTEED CONFLICT FREE, © The Cooperative Bank

went on to ask key questions the diamond trade will have to address in order to comply with the PATRIOT Act, which is also important for Kimberley Process implementation:

- ◇ As a supplier, are you complying with the PATRIOT Act regulations?
- ◇ Are your customers complying?
- ◇ Are your vendors complying?

Consumer awareness

It is ironic that diamonds, which are seen by many as a symbol of love, have been the cause of destruction in so many countries. Are consumers aware of the problem and are they concerned? Recent studies show a sharp increase in consumer awareness of conflict diamonds. A study conducted by the Jewelry Consumer Opinion Council (JCOC) in July 2003, which surveyed 2000 consumers in North America, found that 26% of consumers know about conflict diamonds. This represents an increase of 271% over the past two and a half years.⁶⁰

A consumer study conducted by ActionAid, a UK-based development NGO, showed similar results. ActionAid carried out a Valentine Day's poll in 2003 in the United Kingdom and found that 25% of people know about conflict diamonds, compared with 9% in May 2000. Furthermore, 70% of those surveyed said that

they would not buy diamond jewellery if it could not be guaranteed as conflict-free.⁶¹

These statistics show that the diamond trade should be worried about not tackling the conflict diamond problem. There are other issues facing the diamond industry that have serious implications for consumer confidence. One is the emergence of synthetic diamonds, which could impact the price and market share of natural diamonds. Gemesis, a company producing and selling synthetic diamonds, has the advantage of consumers not having to worry about the origin of their diamonds. The Gemesis website says: “Gemesis continually works with diamond industry laboratories and institutes to provide consumers with complete disclosure regarding the quality and origin of Gemesis-created diamonds.”⁶² Another issue, which could also affect con-

sumer confidence, is the use of gem treatments to enhance the appearance of diamonds.⁶³

Many in the diamond trade have cited the threat conflict diamonds pose to consumer confidence as a major reason for taking action. However, the problem goes much deeper than that. Conflict diamonds expose the fundamental problem with the way in which the diamond industry operates, the lack of accountability, ethics and social responsibility within the industry and how this has given access to criminals, rebel groups and terrorists.



RESULTS AND ANALYSIS

OF GLOBAL WITNESS' SURVEY AND INVESTIGATIONS ON IMPLEMENTATION OF SELF-REGULATION IN THE US DIAMOND JEWELLERY RETAIL SECTOR

Is the diamond industry delivering on its promises?

As outlined in earlier sections, the diamond industry has repeatedly made public statements about its commitment to combat the trade in conflict diamonds and has, finally, adopted self-regulation that it states is intended to address the problem. Furthermore, since January 2003, diamond companies have been required to implement the self-regulation and the system of warranties aimed at preventing trade in conflict diamonds. One year after the launch of the self-regulation, Global Witness believes it is now time to evaluate how effectively the self-regulation is working in practice and whether it is achieving its objectives. Are diamond companies aware of the self-regulation and actually implementing it? Is the retail sector now able to give consumers some assurances that diamonds are not from conflict sources?

Global Witness has found that the diamond industry and the World Diamond Council have not taken adequate measures to promote widespread compliance with self-regulation and to monitor whether it is being implemented. While there are some in the industry that are trying to promote awareness and compliance, overall the diamond trade has merely given lip service to

self-regulation, putting far more energy into issuing public statements than actually backing them up with any meaningful actions.

The World Diamond Council, in its role of coordinating and having oversight of the industry's implementation of self-regulation, should have undertaken a comprehensive and global survey of compliance with it to assess whether it is working in practice, not just in the US but on a global level. According to Global Witness' research, there has been inadequate systematic monitoring done by the World Diamond Council to assess the level of awareness and compliance with the self-regulation among all sectors of the industry. This strongly indicates that the industry is doing little to police itself, contrary to its commitments, and that the self-regulation is more of a public relations manoeuvre rather than a meaningful exercise. While some work has been done by US jewellery trade associations to promote US compliance, this has not involved adequate monitoring of compliance.

It is interesting to compare the diamond industry's pattern of inaction on the conflict diamond issue with efforts currently underway by the industry to meet the anti-money laundering requirements under the USA PATRIOT Act (see p. 16 for more information). The anti-money laundering regulations, if implemented

effectively, will also help prevent diamonds from funding conflict and illicit activities. Although the rules have not yet come into effect, diamond industry trade associations in various countries are currently undertaking a significant amount of activities to educate the trade about how to comply with these requirements because failure to do so will have serious legal consequences. In contrast, the diamond industry has not made adequate efforts to ensure compliance with the voluntary self-regulation.

Recognising the industry's lack of due diligence in implementing and monitoring self-regulation, Global Witness undertook spot checks and investigations to examine whether the US diamond jewellery retail sector is following through on its commitments to combat conflict diamond trading. These investigations were done to help evaluate the level of awareness and implementation of the self-regulation of the US diamond jewellery retail sector. It is important to recognise that the results of this survey cannot be extrapolated to the entire diamond jewellery retail sector or to the diamond industry as a whole. The results give a snapshot of how the US diamond jewellery retail sector is implementing the self-regulation. However, the snapshot survey and investigations do provide an insight into how the self-regulation is working and whether the industry is giving consumers worthy assurances that diamonds are not coming from conflict sources.

The US is by far the largest market for diamond jewellery on a global level, making the US diamond jewellery retail sector an influential player in promoting compliance with the self-regulation throughout the diamond pipeline. Diamond jewellery retailers are the public face of the entire diamond industry and must accept that they have a special responsibility to consumers in ensuring that the warranties and effective policies to back up the warranties are in place. They must work to ensure that there is accountability throughout the diamond pipeline for self-regulation implementation. Most traders in rough diamonds and jewellery manufacturers do not meet members of the general public in the daily course of business. This public anonymity cannot be used as an excuse for inaction. The retail sector has an obligation to exhibit strong leadership on this issue not only by fully implementing the self-regulation but also by actively working to promote compliance with the self-regulation throughout the supply chain. It is also the responsibility of the World Diamond Council, as the main coordinator of the industry's actions to address this issue, to monitor implementation of the self-regulation within the diamond jewellery retail sector in the US and globally (including efforts of trade associations) and for diamond jewellery trade associations like Jewel-

ers of America to ensure that its members are educated about the self-regulation and are implementing it.

Global Witness recognises that it is not just the responsibility of the retail sector to comply with the self-regulation and that other sectors in the industry, especially those dealing in rough diamonds, also have a crucial role to play. In fact, Global Witness has begun a process of surveying whether companies dealing in rough diamonds are fully implementing the self-regulation, and are complying with the Kimberley Process.

How the investigations were carried out

Global Witness conducted undercover investigations in January 2004 to assess the US diamond jewellery retail sector's compliance with the self-regulation and the level of awareness among company employees about their companies' policies on conflict diamonds. Global Witness investigations focused on a range of diamond jewellery retailers (independents, department stores, jewellery chains) located in four major cities on the east and west coast of the US: Los Angeles, Miami, New York and Washington, DC (see Table on p. 28 for list of stores visited). The stores surveyed included low-end, mid-range and luxury diamond jewellery companies and department stores. Global Witness surveyed a total of 30 companies in the four cities to determine whether these companies were implementing the self-regulation and whether they were able to give substantial assurances to customers that their diamonds were conflict-free. Many of these jewellery chains are some of the largest in the US that make significant profits from sales of diamond jewellery. Global Witness investigations also evaluated whether company employees were informed of these policies and able to communicate them to customers as an indicator of actions taken by the company to implement its policy on conflict diamonds.

Global Witness carried out these investigations by visiting selected stores posing as customers shopping for diamond jewellery. It was important to approach salespeople as customers in order to get a picture of how knowledgeable company employees are about the conflict diamond issue and whether valid assurances are given to consumers that diamonds are not from conflict sources (two of the main purposes of the self-regulation). In each store visited, Global Witness asked salespeople the same questions: "could the company give assurances that it was not selling conflict diamonds?" and "what was the company's policy on conflict diamonds?". Global Witness asked questions on whether companies used the warranties, as this is one of the main components of the self-regulation. Two

Global Witness investigators were present at all times during these investigations.

Following these investigations, formal letters were sent from Global Witness (by fax and by mail) to the management of each diamond jewellery retailer surveyed requesting information on its policy on conflict diamonds, and the system of warranties and practical measures that were being taken to implement these policies and the self-regulation. Global Witness also followed up with all companies by telephone to bring the letter to their attention and to ask the status of their efforts to respond. Follow-up with all companies surveyed was important in order to find out the companies' official policies on the conflict diamond issue, especially given that some employees in the stores may have been unaware of these policies or did not express themselves clearly. This was done to give companies adequate opportunity to demonstrate what they are doing to combat the trade in conflict diamonds.

Analysis of the results

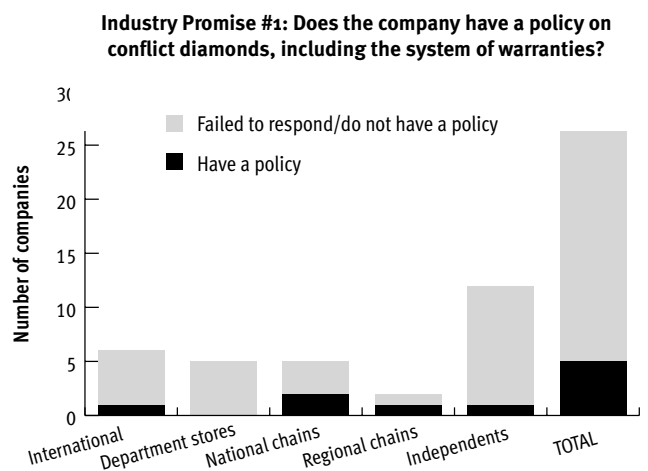
The results of Global Witness' survey and investigations present an alarming picture—they show that many key players in the US retail sector are falling short in implementing the self-regulation and system of warranties. Furthermore, Global Witness found that overall there is a very low level of awareness among company employees about policies on conflict diamonds. In most cases employees could not give Global Witness assurances that they had taken steps to reduce the likelihood that they were selling conflict diamonds.

The results of the survey and investigations are set out in the Table on "Global Witness' Results of Survey and Investigations". The Table provides the following information for each company: response from salespeople in stores when being asked whether the company has a policy on conflict diamonds and the system of warranties, response received from the company about its policy on conflict diamonds and system of warranties, whether the company has any information on conflict diamonds on its website (if the company has one), and whether the company is a member of Jewelers of America or Jewelers Vigilance Committee (two major jewellery trade associations that have endorsed the self-regulation). Companies may also be members of other trade organisations that have subscribed to the self-regulation or may have agreed to carry out the self-regulation on an individual basis. The Table shows what Global Witness was told in stores and whether a response was received from company management outlining its policies on conflict diamonds and the system of warranties.

The analysis below examines whether the US diamond jewellery retail sector is implementing diamond industry promises made to implement the self-regulation and system of warranties based on Global Witness' survey and investigations. It should be recognised that industry promises to implement the self-regulation were generally not made by individual companies but specific international and national industry trade organisations on behalf of the diamond industry as a whole. Therefore, each company's obligations under the self-regulation may be implemented in different ways depending on the trade association it is a member of. For instance, Jewelers of America is an example of a US trade association which is requiring its members to implement the system of warranties and has incorporated this requirement as part of its Rules of Professional Conduct and Business Practices. Jewelers Vigilance Committee has endorsed the system of warranties and is urging its members to use it. However, all companies, not just those that are members of trade associations, should be implementing the self-regulation in order for it to be effective in preventing the trade in conflict diamonds. Key representative bodies of the diamond industry should be reaching out to companies that are not members of trade associations to ensure that those companies are effectively implementing the self-regulation.

The analysis is organised by looking at what the diamond industry signed up to—mainly the Resolution adopted by the WFDB and IDMA joint resolution to support the Kimberley Process (Refer to Box on "What the Diamond Industry Has Signed Up To", see p. 12).

INDUSTRY PROMISE #1: '(B) Each member organisation undertakes to require its members to: [implement] SYSTEM OF WARRANTIES: Make the following affirmative statement on all invoices for its sale of rough diamonds, polished diamonds and jewelry containing diamonds. "The diamonds herein invoiced have been purchased from legitimate



*sources not involved in funding conflict and in compliance with United Nations resolutions. The seller hereby guarantees that these diamonds are conflict free, based on personal knowledge and/or written guarantees provided by the supplier of these diamonds.”*⁶⁴

Only five companies out of 30 companies surveyed (17%) informed Global Witness in writing that they are implementing the system of warranties. Twenty-five companies surveyed failed to provide any information in writing on whether they have policies or are implementing the system of warranties. The results of this

**“Your left hand is your heart.
Your right hand is your voice.
Your left hand knows the
answers. Your right hand asks
the questions. Women of the
world, raise your right hand.”**

—Diamond Trading
Company/De Beers

section (Promise #1) are based only on the written responses that Global Witness received from company management (in response to Global Witness’ letter requesting information on each company’s policy and warranties) and not on responses from company employees in stores (an analysis of employee responses is outlined under Industry Promise #3).

The following companies informed Global Witness in writing that they had a company policy on conflict diamonds and were implementing the system of warranties: Fortunoff, Pampillonia, Signet Group (owner of Kay Jewelers), Tiffany & Co. and Zale Corporation. Except for Pampillonia, these companies sent a letter from the company management to Global Witness outlining what their policy is. Pampillonia only provided a copy of an invoice that showed the warranty on it and did not provide more on what its conflict diamond policy entails. The remaining 25 companies failed to provide any written response to Global Witness about the system of warranties or their policies to combat conflict diamond trading. Only one of these 25 companies mentions the conflict diamond issue on its website—Continental Jewelers has a brief explanation of its policy on its website but this does not provide any details on the policy and does not mention the system of warranties (see Table on p. 28). The remaining companies do not have any information about this on their websites (if they have one). JC Penney replied by e-mail that it was going to respond to Global Witness’ letter but did not provide a further written response. The 24 other companies failed to respond to Global Witness’ letter and follow up calls at all. The Table on “Results of Global Witness Survey and Investigation” indicates whether Global Witness received a response for each company.

It is alarming that the majority of companies surveyed failed to inform Global Witness in writing about their policies on conflict diamonds and the system of

warranties. Of grave concern is that a significant number of companies that did not provide any information are major national chains and some of the largest international jewellery companies with significant profits, exactly the types of companies that should find it easiest to implement such policies. Federated Department Stores, Inc. (parent company of Bloomingdales and Macy’s), Bulgari, Cartier, JC Penney, Neiman Marcus, Saks Fifth Ave., Van Cleef & Arpels, all publicly owned companies with significant profits and high profiles, failed to provide written responses to Global Witness’ letter and follow up calls (see Box on “Profiles of Some Major Players”). However, the salesperson at Cartier was partially informed about Cartier’s policy on conflict diamonds and mentioned the warranties. One of the salespeople at Saks Fifth Ave. was well-informed on its policy and mentioned the system of warranties (see Table on p. 28). JC Penney, Neiman Marcus, Macy’s and Saks Fifth Ave. are members of the Jewelers Vigilance Committee and JC Penney and Saks Inc. serve on the Jewelers Vigilance Committee’s Board of Directors.⁶⁵

Though these companies didn’t respond, it is likely that they may have some policy on conflict diamonds given their involvement with jewellery trade associations that have endorsed the self-regulation. However, their failure to respond even if they do have a policy is an important measure of how seriously they take commitments to combating the trade in conflict diamonds and supporting the Kimberley Process.

These companies, which should be taking a leadership role in implementing the self-regulation and pressuring their suppliers, gave Global Witness no indication of whether they have a policy or are imple-

bloomingdale's

Federated Department Stores, Inc., which operates Bloomingdales and Macy’s, failed to provide Global Witness with a written response about its policy on conflict diamonds.

JC PENNEY

“Throughout our nearly 100-year history, JC Penney has been committed to legal compliance and ethical business practices in all our activities. JC Penney demands the same commitment from each of our thousands of suppliers.”

— JC Penney website

“Every single diamond comes from Africa . . . We have been working with suppliers all our lives and we basically don’t get involved in anything that is going to cause us harm either.”

—Salesperson at JC Penney, Miami, Florida when asked what the company’s policy is on conflict diamonds.

See p. 21 on JC Penney’s policy



Global Witness investigators visited this Bulgari store on Rodeo Drive in Los Angeles—where the salesperson was not aware of what Bulgari's policy is to combat the trade in conflict diamonds. See p. 26 and p. 28 for more information on Bulgari's policy.

menting the system of warranties. Department stores and independents performed especially poorly—with all five department stores surveyed providing no written response about whether they have a policy on conflict diamonds. The majority of independents surveyed (11 out of 12) failed to provide Global Witness with any written response about their policy on conflict diamonds, including several surveyed in New York's Diamond District.

JC Penney states on its website that it is “committed to legal compliance and ethical practices in all our activities” and that “it demands the same commitment from each of our thousands of suppliers”.⁶⁶ However, there is no mention of its policy to ensure that its suppliers are not dealing in conflict diamonds. JC Penney, along with other retailers including Tiffany & Co., Zale Corporation and Sterling (owned by the Signet Group), did send a letter to IDMA stating that “we, too have made commitments to do everything within our power to stop the trade in conflict diamonds” and states that they make these commitments “based on the statements of assurance we receive from our diamond and diamond jewelry vendors through the voluntary system of warranties established by WFDB and IDMA in July 2000, which were reiterated by the Kimberley Process participants in October 2002.”⁶⁷



The national jewellery chains did only a little better. Both Signet (owner of Kay Jewelers) and Zale Corporation (owner of Zales) informed Global Witness in writing that they are implementing the system of warranties. Whitehall Jewelers, which has 381 stores across the US and over \$340 million in sales in 2003, failed to provide any written response to Global Witness' letter (see Box on “Profiles of Some Major Players”). Littman Jewelers, which is a subsidiary of Fred Meyer Jewelers, the fourth largest jewellery chain in the US, also did not respond in writing, although its employee did say that Littman's had a policy and is requiring suppliers to provide written guarantees.⁶⁸ Christian Bernard Paris, which has 17 stores across the US, failed to provide a written response. It is important to note that a significant number of companies that did not respond are members of Jewelers Vigilance Committee and Jewelers of America, which has adopted the system of warranties as part of its Rules of Professional Conduct and Business Practices and recently adopted a Suppliers Code of Conduct that is supposed to improve consumer confidence in jewellers. Jewelers of America members surveyed that failed to respond include Bulgari, Cartier, Wempe and seven of the independent stores (see Table on p. 28).

Wal-Mart

Although Global Witness did not carry out spot checks on Wal-Mart stores, a letter from Global Witness was sent to Wal-Mart asking for information about its policy



Cartier failed to inform Global Witness in writing about its policy on conflict diamonds. See p. 20 and p. 28 for more information on Cartier's policy.

PROFILES OF SOME MAJOR PLAYERS

Bulgari

- Over 150 stores worldwide
- 2003 sales of over \$930 million

Federated Department Stores, Inc.

- Operates Macy's and Bloomingdales
- Over 450 stores in US, Guam, Puerto Rico
- 2003 sales of over \$15 billion

Fred Meyer Jewelers

- Parent company of Littman and Barclay Jewelers
- 2003 sales of over \$250 million

JC Penney

- Over 1000 department stores in US, Puerto Rico, Mexico and Brazil
- 2003 sales of over \$32 billion

Mayor's Jewelers

- Over 25 stores in Georgia and Florida
- 2003 sales of over \$118 million

Neiman Marcus Group

- Over 35 stores across US
- 2003 sales of \$3.1 billion

Richemont

- Owns Cartier, Van Cleef & Arpels
- Hundreds of stores and franchises worldwide
- 2003 sales of over \$4.4 billion

Saks Incorporated

- Operates Saks Fifth Ave.
- Over 375 stores across US
- 2003 sales of over \$6 billion

Signet Group plc.

- Owns Kay Jewelers, Sterling Jewelers and major UK jewellery stores
- Over 1,700 stores in US and UK
- 2003 sales of over \$2.5 billion

Tiffany & Co.

- Over 140 stores worldwide
- 2003 sales of over \$2 billion

Wal-mart

- Over 4,900 stores worldwide
- 2003 sales of over \$250 billion

Whitehall Jewelers

- Over 380 stores across US
- 2003 sales of over \$340 million

Zale Corporation

- Operates Zales
- Approximately 2,300 retail locations in US, Canada and Puerto Rico
- 2003 sales of over \$2 billion

Sources: Company websites and annual reports.

on conflict diamonds. Wal-Mart International sent a very short letter that provided little detail on its policy, stating that conflict diamonds were in violation of its ethical standards and that it 'has received written confirmation from all of our fine-jewelry suppliers that we are not purchasing, nor ever have purchased, any "conflict" or "blood diamonds."' ⁶⁹ While the "written confirmation" may have been a reference to a system of warranties, the letter provides no details on how the system works, how it ensures that suppliers were complying with the warranty and how it is able to back up its claim that it has never purchased any conflict diamonds. Wal-Mart has adopted Standards for Suppliers that outline what suppliers must do on a range of issues, including labour issues, child labour, discrimination/human rights and factory inspection requirements. However, no mention is made of what is required of suppliers to address conflict diamonds. ⁷⁰

INDUSTRY PROMISE #2: "Each member organisation undertakes to require its members to: [implement] . . . CODE OF CONDUCT: (ii.) Not to buy any diamonds from firms that do not include the above statement on their invoices. (iii.) Not to buy any diamonds from suspect or unknown sources of supply and/or that originate in countries that have not implemented the Kimberley Process International Certification Scheme. (iv.) Not to buy diamonds from any source that after a legally binding due process system has been found to have violated government regulations restricting the trade in conflict diamonds. (v.) Not to buy diamonds in or from any region that is subject to an advisory by a governmental authority that conflict diamonds are emanating from or are available for sale in such region unless such diamonds have been exported from such region in compliance with the Kimberley Process requirements. (vi.) Not to knowingly buy or sell or assist others to buy or sell conflict diamonds..." ⁷¹

By asking company management to provide written responses outlining its policy on conflict diamonds and the system of warranties, Global Witness was also assessing whether companies were implementing the code of conduct (see above). In other words, are these companies implementing policies, procedures and practical measures to back up the warranty? What are US diamond jewellery retailers doing to ensure that they are not knowingly buying or selling conflict diamonds? As outlined above, only five companies surveyed informed Global Wit-



“. . . we are helping make memories that last a lifetime”.
—Zales

fortunoff

February 5, 2004

Fortunoff strongly supports the industry's self-regulation system, and fully complies with the "Voluntary System of Warranties" provision developed by the World Diamond Council and endorsed by Jewelers of America. We require that our diamond and diamond jewelry vendors subscribe to the voluntary warranty system as well.

"The diamonds herein invoiced have been purchased from legitimate sources not involved in funding conflict and are in compliance with the United Nations Resolutions. I hereby guarantee that these diamonds are conflict free, based on personal knowledge and/or written guarantees provided by the supplier of these diamonds."



February 20, 2004

We acknowledge receipt of your letter dated 3 February 2004 to Mr. Lee Scott. Please note that Wal-Mart has no interest in business practices that could be considered illegal, unethical or that may violate human rights. We consider "conflict" or "blood diamonds" to be in direct violation of our ethical standards.

We have received written confirmation from all of our fine-jewelry suppliers that we are not purchasing, nor ever have purchased, any "conflict" or "blood diamonds".

SIGNET

20 February 2004

Signet also trained its buying staff with regard to these requirements and briefed its sales associates on the operation of the KPCS. During 2003 an internal audit of these procedures was carried out which confirmed, that while Signet is not directly governed by the KPCS, the Group's compliance with Jewelers of America's recommendations regarding the KPCS process.

TIFFANY & CO.
600 MADISON AVENUE
NEW YORK, NEW YORK 10022
212-755-9000

February 18, 2004

Tiffany has always been extremely diligent in selecting suppliers of diamonds and other materials used in our business. We are interested in prospective suppliers' stability, business ethics, financial dependability, capabilities, processes, sources, and willingness to work in partnership with us in a transparent manner. Due to these stringent criteria, Tiffany works with only a small and select group of diamond suppliers on a formalized and continuing basis, and we rarely, if ever, purchase in the "spot" market with one-off type purchases. Knowing our suppliers, their business, and their sources helps us to ensure the integrity of the diamonds we buy for use in Tiffany jewelry.

Tiffany requires full compliance with the Kimberley Process during the purchase of polished diamonds. We require all of our suppliers' memos and invoices for polished diamonds to include the Kimberley Process warranty statement.

Tiffany requires our suppliers to indicate the source of the rough diamond for every polished diamond we acquire on memo and invoice.

- Tiffany requires full compliance with the Kimberley Process during the purchase of rough diamonds. We require all of our suppliers' memos and invoices for rough diamonds to include the appropriate Kimberley Process warranty statement. Consigned goods are blocked from receipt on our premises and invoices are systematically blocked from the payment cycle if the Kimberley Process warranty is not present.
- Tiffany has been actively pursuing a "mine-of-origin" strategy with regard to the rough diamonds we purchase. We currently purchase rough diamonds only from the Diavik mine in Canada (through Rio Tinto Diamonds and Aber) and the Ekati mine in Canada (through BHP Billiton). Our mine of origin strategy was initiated in the late 1990's with Tiffany's investment in Aber and the subsequent rough diamond supply agreement between the companies. This strategy continues to be pursued and other mine of origin sources of rough will be added as they are identified.

ZALE CORPORATION

Robin L. Bennett
Director
Senior Attorney

February 9, 2004

Direct Dial: 972/580-4552
Telecopier: 972/580-4934

We are confident that our self-regulation policies and Vendor Code of Conduct fully conform to the requirements of the Kimberley Process and the supporting information and proposals made available to the industry by the World Diamond Council and Jewelers of America. In addition, Zale, as a corporate citizen of the United States, is now subject to the provisions of the Clean Diamond Trade Act signed into law by President George W. Bush on April 25, 2003 (the "Act"). As you are no doubt aware, the Act codifies many of the provisions of the Kimberley Process.

ness in writing that they are implementing the system of warranties. **Some of the company responses did not provide details on how the system of warranties is being implemented and what policies, procedures and measures companies have in place to back them up; other companies did provide information to address this issue.** Pampillonía only provided a sample invoice with the warranty on it and did not provide any more details on its policy. Fortunoff stated that it is implementing the system of warranties and provided a copy of the letter it had sent to suppliers requiring that they subscribe to the warranty system and code of conduct. Fortunoff states that it has a signed agreement with vendors on the system of warranties that has been incorporated into vendor contracts and that no suppliers have refused to agree to this.⁷² It did not provide more details on policies and other measures being taken to back up the warranty.

Signet Group and Zale Corporation also responded and stated that they were implementing the system of warranties. Zale Corporation, which has 2,300 stores throughout the US, Canada and Puerto Rico, and annual sales of over \$2 billion (see Box on "Profiles of Some Major Players"), stated that it requires its vendors to guarantee that diamonds and diamond jewellery are conflict free but did not provide more details on how it is working to ensure this.⁷³

Signet, which owns Kay Jewelers and states that it is the largest speciality jewellery retailer in the world, provides more details, stating that it is committed to the

Kimberley Process and has "amended its systems, procedures and documentation to take account of the KPCS [Kimberley Process] so that only diamonds that comply with the KPCS are accepted from trade suppliers".⁷⁴ The letter states that Signet has required its suppliers to "supply the Group [Signet] with merchandise that was warranted to comply with the Kimberley Process".⁷⁵ It has "trained its buying staff with regard to these requirements and briefed its sales associates on the operation of the KPCS" and "during 2003 an internal audit of these procedures was carried out which confirmed, that while Signet is not directly governed by the KPCS, the Group's compliance [sic] with Jewelers of America's recommendations regarding the KPCS process". However, Signet also mentioned that it had "urged major suppliers to support the auditing of diamond shipments required by the KPCS and the review procedures being carried out at the national level". It did provide some information on what it is doing to ensure that suppliers are backing up warranties with policies to prevent dealing in conflict diamonds, although it did not outline this in great detail. Fortunoff, Signet and Zale Corporation all mentioned that they are carrying out these activities as endorsed by Jewelers of America. Officials from Fortunoff and Zale Corporation also serve on the Jewelers Vigilance Committee's Board of Directors.⁷⁶

Companies' reliance on the warranties highlights Global Witness' concern that companies are actually

promoting the warranty without having the policies in place to back it up. It is telling that many of the companies surveyed are not even taking the minimum measures when even the minimum is far from adequate in keeping conflict diamonds out of the legitimate diamond trade.

Tiffany & Co., which manufactures jewellery and therefore deals with both rough and polished diamonds, provided the most detail about its policy to combat the trade in conflict diamonds and to implement the system of warranties. Tiffany & Co. is a member of Jewelers of America and serves on the Board of the Jewelers Vigilance Committee.⁷⁷ The employee at Tiffany & Co. was only partially informed about the company's current policy on conflict diamonds, which is discussed in more detail in the next section. However, a letter from Michael J. Kowalski, Chief Executive Officer of Tiffany & Co., to Global Witness outlined several concrete measures that Tiffany & Co. states it is taking to help stop the trade in conflict diamonds and how this has been integrated into the company's broader efforts to address social, ethical and environmental issues. This includes: applying strict criteria in the selection of suppliers, requiring a warranty statement from its suppliers, implementing a "mine-of-origin" strategy for all rough diamonds purchased, implementing a chain of custody for its diamonds which has been certified to the ISO (International Organization for Standardization) 9001:2000 quality management system standards, and applying standards for factories where Tiffany & Co. diamonds are polished.⁷⁸ Unlike other companies' responses, the response from Tiffany & Co. indicates that the company has implemented policies to have more control over its sourcing policy, to back up the system of warranties and help ensure that it is not dealing in conflict diamonds. As part of these efforts, Tiffany & Co. has entered into an agreement with Aber Diamond Corporation, a diamond mining company in Canada, to buy \$30 million in diamonds annually over the next ten years.⁷⁹ The fact that Tiffany & Co. buys a significant amount of its diamonds from Canada may make it easier to institute concerted policies to track diamonds and prevent trading in conflict diamonds.

INDUSTRY PROMISE #3: *"Each member organisation undertakes to require its members to: . . . [implement] CODE OF CONDUCT . . . (vii.) Assure that all company employees that buy or sell diamonds within the diamond trade are well informed regarding trade resolutions and government regulations restricting the trade in conflict diamonds".⁸⁰*

The survey found a very low level of awareness among employees about their companies' policy on conflict diamonds, and the system of warranties. In the

majority of cases, each company was visited once (one store was visited) except in three cases: two stores were visited for both Zales and Whitehalls and two salespeople were visited at two different jewellery counters (each selling a different brand of fine jewellery) at Saks Fifth Ave.

Company employees in 17 out of 33 stores (30 companies in total), or 51% of stores visited, were not informed about whether their company had a policy on conflict diamonds or is implementing the system of warranties (please see column on response in stores on Table on "Results of Global Witness' Survey and Investigations"). Companies that received a "no" in this category include:

"Yes. These are all pre-screened. They make sure that they are in touch with vendors and that the vendors have given assurances and guarantees that those are not from the conflict areas."

—Salesperson at a fine jewellery counter at Saks Fifth Ave., New York, NY

MACY'S

"We subscribe to ethical business practices in every facet of our business."

—Federated Department Stores (owner of Macy's) website

"They send it to us and we sell it. That's it. We're not sure. But last I heard we got it from De Beers. . . . But I don't know where they get it from."

—Salesperson at Macy's, Santa Monica, California when asked what the company's policy is on conflict diamonds
See p. 20 and 30 on Macy's policy.



NEIMAN MARCUS

"But there is a certificate of authenticity that we can give to you."

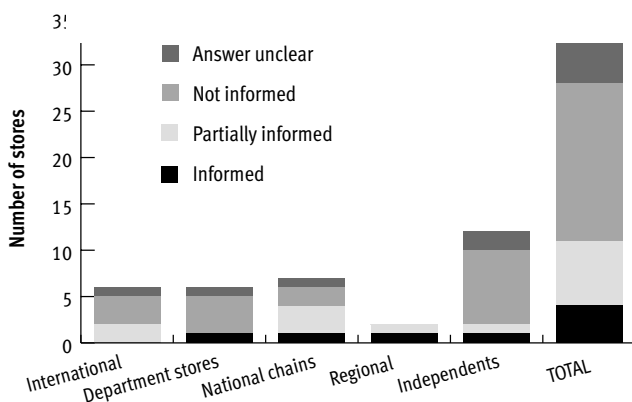
—Salesperson at Neiman Marcus, Washington, DC when asked about the company's policy on conflict diamonds

"We conduct our businesses in strict compliance with both the letter and the spirit of the law, and with a scrupulous commitment to the highest standards of business and personal ethics . . . The Company's objective is . . . to be a model corporate citizen in all of the communities in which we do business."

—Neiman Marcus website

See p. 20 and 30 on Neiman Marcus' policy

Industry Promise #3: Is salesperson well-informed about the company's policy on conflict diamonds, system of warranties and the specifics of the policy?



- ◇ Company employee(s) that noted that diamonds came from De Beers or other “known” sources but did not offer clarity on this and did not indicate whether the company has a policy and is implementing the system of warranties.
- ◇ Company employee(s) that declared generally that the company hasn’t had any problems with conflict diamonds over the company’s many years of business but did not provide information on what the company policy is and whether the system of warranties is used.

At seven stores surveyed (21%), salespeople were partially informed about their company’s policies but did not know about the details or the system of warranties; out of these seven stores, two salespeople did mention the warranties but were not fully informed of what the company policy is. At four stores (12%), salespeople were well-informed, meaning that they were informed about their companies’ policy and the system of warranties. In five stores, the salesperson’s response was unclear as to whether the company had a policy or not or was implementing the system of warranties.

Those saying that they were unaware of a company policy on conflict diamonds or the system of warranties were from a range of stores, including independents, jewellery chains, luxury diamond jewellery companies as well as department stores. There was a particularly low level of awareness among department stores (salespeople at four out of the five department stores surveyed—Bloomingdales, JC Penney, Macy’s and Neiman Marcus—were not aware of a policy while Saks Fifth Avenue had mixed results—see Table on p. 28). There was also a low level of awareness among luxury jewellery companies with company employees at three out of six luxury jewellery companies not informed about their companies’ policy on conflict diamonds and the system of warranties (Bulgari, Van Cleef and Arpels, Wempe). National jewellery chains had better results

with employees at three out of four national jewellery chains stating they had policies (Kay Jewelers, Littman Jewelers, Zale Corporation). However, the salespeople were partially informed at two Zales’ stores and at the Kay Jewelers store visited—while they did mention general company efforts to prevent buying conflict diamonds, they did not mention the

system of warranties. Signet, which owns Kay Jewelers, informed Global Witness in writing that it has briefed its employees about the operations of the Kimberley Process (see section on Industry Promise #2).

There were several cases where information provided by salespeople indicated that the company had a policy but where no written response was received from company management. For example, salespeople at Cartier, Littman Jewelers, Mayor’s Jewelers and two independent shops told Global Witness that their companies had a policy on conflict diamonds (and in some cases mentioned the system of warranties) but these companies failed to provide any response to Global Witness’ letter asking about their policy on conflict diamonds. One salesperson at a jewellery counter in Saks Fifth Avenue informed Global Witness that the company that made the jewellery sold at that counter was implementing the system of warranties, but Saks Fifth Avenue did not provide any written response on what its policy on conflict diamonds is and how that applies to vendors selling jewellery in its store. The salesperson at Fortunoff explained

“There is a process called the Kimberley Process, they are working it out in detail. But it is not 100% but it is better than it had been. If they can’t sell these diamonds anywhere, then they will stop doing it. What would be the point if they can’t get money for it?”

—Salesperson at Fortunoff, New York, NY

TIFFANY & CO.

how the company is using the system of warranties with its suppliers and was the only company employee surveyed that mentioned the Kimberley Process.

In many cases, Global Witness found that salespeople often responded to questions on conflict diamonds by referring to the quality or authenticity of the diamond and were generally unable to give assurances that their company had taken measures to reduce the risk of selling conflict diamonds (see Box on ‘Spotting the “Loupe” Holes’). Even among the few company employees who said they had a policy on conflict diamonds, there was a very low level of awareness about what the policy entailed (see Table on p. 28). For example, the salesperson at Tiffany & Co. said that Tiffany & Co. had a policy, did not mention anything about the warranties and provided a policy statement that was three years old

(dated 11 December 2000). Company employees' lack of knowledge about the policy can hinder a company's ability to give assurances that it was taking measures to help prevent selling conflict diamonds. **In fact, the use of warranties, one of the main components of the industry self-regulation, was mentioned in only six stores visited. This represents 18% of the total number of stores surveyed.**

The low level of awareness shows how major companies in the US diamond jewellery retail sector have failed to inform and educate their employees about policies they have in place to combat conflict diamond trading. The Joint WFDB/IDMA resolution supporting the Kimberley Process states that all company employees that buy or sell diamonds within the diamond trade should be "well-informed" about trade resolutions and

government regulations to stop conflict diamond trading. However, the results show that very few company employees know about the system of warranties, the major component in this industry's resolution. Only one company mentioned the Kimberley Process and only a few made reference to US government regulations to prevent trade in conflict diamonds. The results show that the industry is failing to implement another basic measure of the self-regulation. If companies are failing to comply with this basic measure, then what does this mean for other actions the industry is supposed to be taking to implement the self-regulation?



SPOTTING THE "LOUPE" HOLES

The diamond industry has repeatedly made promises to adopt policies to stop trading in conflict diamonds and to educate company employees about these policies. However, responses from salespeople in US jewellery stores when asked about policies show that this has failed to happen.

"We are a French company . . . As far as I know, we only buy from reputable companies, because Van Cleef's has been around since 1906. We build on tradition, class and everything. . . . Not that I know of [when specifically asked if company has policy] If you want to please contact our public relations and see."
—Salesperson at Van Cleef & Arpels, Rodeo Drive, Los Angeles, California

"Actually, the diamonds is [sic] all controlled in [sic] DeBeers . . . We all buy from everywhere. There is no proof."
—Salesperson at Whitehall Jewellers, Santa Monica, California

"We have our own mine from there that is not involved at all with that . . . no we don't buy from there."
—Salesperson at Whitehall Jewellers, Miami Florida

"Which diamonds? . . . I have no idea how you do that [in response to question of whether the company can provide assurances that diamonds are not from conflict sources]."
—Salesperson at Bloomingdales, New York, NY

"We have our own place, you know, to buy the diamonds. We are known to buy the diamonds from the best place. That's why people pay to have the Bulgari name on it."
—Salesperson at Bulgari, Rodeo Drive, Los Angeles, California

But diamonds are totally recyclable . . . There is no way of tracking diamonds. They are not like Rolex watches that have serial numbers . . . I can't tell you where any of these diamonds come from."
—Salesperson at independent shop, Santa Monica, California

"I really don't know. We get them all from Israel . . . But actually, where the diamonds come from really nobody knows, to be very honest with you . . . We can't tell."
—Independent jeweller in Washington, DC

"In the US I can tell you that everybody is generally trying to avoid it [conflict diamonds]. But when you are talking about gem quality stones it is such a tiny percentage that comes out of these rebel countries . . . They are doing stuff in Congress, so that the rough, when rough comes out of the mines some sort of numbers [sic] associated with it. But, yes we try to avoid it [conflict diamonds] and we also buy only cut stones."
—Salesperson at Harry Winston, Rodeo Drive, Los Angeles, California

"I have never heard of it. Fake diamonds, yes?"
—Independent jeweller in New York's Diamond District

Source: Global Witness investigations, January 2004

RESULTS OF GLOBAL WITNESS' SURVEY AND INVESTIGATIONS

| Name of Company and Location of Store(s) Surveyed | Response in Store: Is salesperson well-informed about company's policy on conflict diamonds, system of warranties and the specifics of the policy? ¹ | Written response to Global Witness from company management: Does the company have a policy on conflict diamonds, including the system of warranties? ² | Is the policy mentioned on company's website, (including the current annual report if posted on website)? ³ | Member of Jewelers of America (JA) or Jewelers Vigilance Committee (JVC)? ⁴ |
|---|--|---|--|--|
| Bloomingdales New York, NY Department store | No See p. 26 for quote | No response from Federated Department Stores, Inc. (owner of Bloomingdales) | No | No |
| Boone & Sons Washington, DC Independent | Not clear—salesperson said could guarantee diamonds are conflict-free and mentioned that suppliers were associated with World Diamond Council but didn't provide details on policy or warranties | No response | No | JA Member |
| Bracken Jewelers Santa Monica, CA Independent | Not clear—salesperson did mention that there was documentation to help track larger stones | No response | No | JA Member |
| Bulgari Rodeo Drive Los Angeles, CA International luxury jewellery company | No See p. 26 for quote | No response | No | JA Member |
| Cartier Rodeo Drive Los Angeles, CA International luxury jewellery company | Partially—salespeople did not know details of the current policy but did mention warranties | No response | No | JA Member |
| Chas Schwartz & Sons Washington, DC Independent | Partially—it was not clear what the terms of policy are but did make reference to warranties | No response | No website | JA Member |
| Christian Bernard Paris Washington, DC International speciality jeweller | No | No response | No | No |
| Compton Jewelers, Inc Independent | Yes—salesperson well-informed and mentioned that the company used warranties | No response | No website | JA Member |

1 For each company surveyed, one store was visited once, unless otherwise indicated in the table. Companies that received a no in this category include: 1). Company employee(s) that noted that diamonds came from De Beers or other "known" sources but did not offer clarity on this and did not indicate whether the company has a policy and is implementing the system of warranties. 2). Company employee(s) that declared generally that the company hasn't had any problems with conflict diamonds over the company's many years of business but did not provide information on what the company policy is and whether the system of warranties is used.

2 This is based on whether each company provided a written response to Global Witness' letter from company management asking whether the company has policies or system of warranties in place to combat the trade in conflict diamonds and to provide samples of procedures, warranties and examples of practical measures being taken for implementation.

3 Note that in some cases companies do not have websites, which is indicated in the table.

4 This is based on membership lists of JA and JVC found on their websites or information provided by companies. Due to JA and JVC's endorsement of the self-regulation, their members are likely to have policies on conflict diamonds and the system of warranties. Note that companies may be members of other trade associations that may subscribe to the self-regulation and system of warranties or companies may have subscribed to the self-regulation on an individual basis. For example, Weiser Jewelry, Inc. is a member of the Diamond Dealers Club, another trade association that is promoting the self-regulation. Boone & Sons mentioned its association with the World Diamond Council.

RESULTS OF GLOBAL WITNESS' SURVEY AND INVESTIGATIONS (CON'T)

| Name of Company and Location of Store(s) Surveyed | Response in Store: Is salesperson well-informed about company's policy on conflict diamonds, system of warranties and the specifics of the policy? ¹ | Written response to Global Witness from company management: Does the company have a policy on conflict diamonds, including the system of warranties? ² | Is the policy mentioned on company's website, (including the current annual report if posted or website)? ³ | Member of Jewelers of America (JA) or Jewelers Vigilance Committee (JVC)? ⁴ |
|---|---|--|---|--|
| Continental Jewelers Washington, DC Independent | No | No response | Yes—website states that diamonds are purchased through reputable dealers under strict DTC guidelines to ensure stones are conflict-free | JA and JVC Member |
| DePicciotto Jewelers New York, NY Independent | No | No response | No website | JA Member |
| Diamond Scene Diamond District, New York, NY Independent | No | No response | No | No |
| Fire and Ice Washington, DC Independent | No | No response | No | No |
| Fortunoff New York, NY Regional department store | Yes—salesperson was very well informed, mentioned using warranties and knew about the Kimberley Process. See p. 25 for quote | Yes—letter from Fortunoff dated 5 February 2004 states that the company is implementing the system of warranties and provides sample of letter sent to suppliers | No | JA Member |
| Harry Winston Rodeo Drive Los Angeles, CA International luxury jewellery company | Not clear—salesperson was well informed of problem, mentioned government regulations and said the company was trying to avoid it but didn't provide details on policy or mention warranties See p. 26 for quote | No response | No | No |
| J Royal Jewelers Washington, DC Independent | No | No response | No website | No |
| JC Penney Miami, FL National department store | No See p. 20 for quote | E-mail from JC Penney dated 25 February 2004 informed Global Witness that a response would be sent but nothing further was received. Note that the company apparently has a policy and is using warranties, see p. 21 | No | JVC Member |

RESULTS OF GLOBAL WITNESS' SURVEY AND INVESTIGATIONS (CON'T)

| Name of Company and Location of Store(s) Surveyed | Response in Store: Is salesperson well-informed about company's policy on conflict diamonds, system of warranties and the specifics of the policy? ¹ | Written response to Global Witness from company management: Does the company have a policy on conflict diamonds, including the system of warranties? ² | Is the policy mentioned on company's website, (including the current annual report if posted or website)? ³ | Member of Jewelers of America (JA) or Jewelers Vigilance Committee (JVC)? ⁴ |
|---|---|---|--|--|
| Kay Jewelers Miami, FL National jewellery chain | Partially—salesperson noted that the company is taking all measures possible to make sure diamonds are not from conflict sources and mentioned legislation passed to combat trade in conflict diamonds but did not mention warranties | Yes—letter from Signet (owner of Kay Jewelers) dated 20 February 2004 outlines how the company is implementing the system of warranties | Website mentions conflict diamonds and Kimberley Process but does not outline the policy. | JA Member |
| Littman Jewelers Miami, FL National jewellery chain | Yes—salesperson outlined policy and mentioned that the company required suppliers to provide guarantees | No response | No | No |
| Louis Martin Jewelers New York, NY Independent | No | No response | No website | JA Member |
| Macy's Santa Monica, CA National department store | No See p. 24 for quote | No response from Federated Department Stores, Inc. (owner of Macy's) | No | JVC Member |
| Mayor's Jewelers Miami, FL Southwest regional jewellery chain | Partially—salesperson did not know details of existing policy | No response | No | No |
| Neiman Marcus Washington, DC National department store | No See p. 24 for quote | No response | No | JVC Member |
| Pampillonia Washington, DC Independent | No | Yes—the company sent a copy of an invoice with warranty on it but did not outline its policy | No | JA Member |
| Saks Fifth Avenue New York, NY National department store Fine jewellery counter #1 | Not clear—salesperson had to call to find out that they could send something stating that diamonds came from Israel. | No response | No | JVC Member |

RESULTS OF GLOBAL WITNESS' SURVEY AND INVESTIGATIONS (CON'T)

| Name of Company and Location of Store(s) Surveyed | Response in Store: Is salesperson well-informed about company's policy on conflict diamonds, system of warranties and the specifics of the policy? ¹ | Written response to Global Witness from company management: Does the company have a policy on conflict diamonds, including the system of warranties? ² | Is the policy mentioned on company's website, (including the current annual report if posted or website)? ³ | Member of Jewelers of America (JA) or Jewelers Vigilance Committee (JVC)? ⁴ |
|---|--|--|--|--|
| Saks Fifth Avenue (Con't.) Fine jewellery counter #2 | Yes—salesperson very well informed of issue and mentioned the use warranties. See p. 24 for quote | | | |
| Tiffany & Co. Rodeo Drive Los Angeles, CA International luxury jewellery company | Partially—salesperson did not know details of the policy and provided a statement dated 11 December 2000 on Tiffany's policy on conflict diamonds | Yes—detailed letter from Michael Kowalski, CEO of Tiffany & Co. dated 18 February 2004 stating that the company is fully implementing the system of warranties and outlining specific procedures taken | No | JA and JVC Member |
| Van Cleef & Arpels Rodeo Drive Los Angeles, CA International luxury jewellery company | No See p. 26 for quote | No response | No | JVC Member |
| Weiser Jewelry, Inc. Diamond District New York, NY Independent | No | No response | No website | No |
| Wempe New York, NY International luxury jewellery chain | No | No response | No | JA Member |
| Whitehall Jewelers National Chain Whitehall store Santa Monica, CA Whitehall store Miami, FL | No Not clear See p. 26 for quotes | No response | No | No |
| Zale Corporation National jewellery chain Zales store Santa Monica, CA Zales store Miami, FL | Partially—salesperson did not know details or mention warranties but referred to company's investigations into sourcing Partially—salesperson did not know details or mention warranties but referred to company's efforts to ensure suppliers are not buying conflict diamonds | Yes—letter dated 9 February 2004 from Zale Corporation stated that the company is implementing the chain of warranties | No | JA and JVC Member |

Source: Global Witness Investigations, January 2004

CONCLUSION

The results of Global Witness' survey and investigations present an abysmal picture of the US diamond jewellery sector's implementation of the self-regulation. The results show that **83% of companies surveyed (25 out of 30)**, which include some major US and global retail companies, are falling short on implementing the basic measures of the self-regulation or have failed to inform Global Witness of any efforts to do so. However, the lack of systematic monitoring by the diamond industry means that there is no assessment of whether companies are meeting the basic requirements and that there are no consequences for inaction.

The small number of companies that informed Global Witness (five out of 30) of having policies on conflict diamonds and the system of warranties, provided some information about how these policies work but in some cases did not provide details on how the warranties were backed up with policies and other concrete measures. Tiffany & Co. stood out because it outlined its policies in detail and showed how it has strengthened its sourcing procedures and control over its supply chain to help ensure that it is not dealing in conflict diamonds. Global Witness strongly believes that the system of warranties alone is not enough to adequately support the Kimberley Process and to prevent conflict diamonds from entering the legitimate diamond trade. A warranty simply stating that diamonds are not from conflict sources is meaningless unless it is backed up by concrete policies to ensure that diamonds come from legitimate sources. Some of the responses from company employees show that they feel the system of warranties is limited in how effectively it works. For example, one New York salesperson replied in response to a question on the company's policy on conflict diamonds "We would never knowingly buy any and all of our suppliers know that and they have to sign something that says they would never knowingly sell us but of course there is no real guarantee that some haven't gotten in."⁸¹

The results demonstrate that the World Diamond Council, CIBJO, Jewelers of America, Jewelers Vigilance Committee, WFDB, IDMA and major US diamond jewellery retailers are falling short in delivering on repeated promises they have made to combat the trade in conflict diamonds. The results indicate that very few companies have taken proactive measures to implement self-regulation to combat the trade in conflict diamonds or have not informed Global Witness of efforts to do so. If diamond jewellery retailers are not delivering on these commitments, they have betrayed the trust of consumers. It means they are not taking their responsibility seriously enough to implement the self-regulation, and to apply pressure throughout the diamond jewellery supply chain to put adequate measures in place to support the Kimberley Process and stop conflict diamond trading. This is especially inexcusable for the large, international jewellery companies, national jewellery chains and national department stores that have significant resources and have made commitments to tackle social and ethical issues. It sends the wrong signal to those further up the supply chain (e.g. traders and jewellery manufacturers, who do not interact with the public in the course of daily business) that the self-regulation is unimportant and should not be taken seriously. It also shows where the diamond industry's priorities lie—in carrying out disingenuous public relations manoeuvres rather than taking adequate actions to help prevent diamonds from funding conflicts and human rights abuses.



ENDNOTES

- 1 'Diamond industry as a whole' represents all companies dealing in diamonds throughout the diamond pipeline - from point of mine to point of sale to the consumer.
- 2 Diamonds are a highly valuable source of funds, are easy to transport due to their small size, and have a relatively constant international value. The way in which they are mined and the no-questions asked tradition of trading also plays a major role in their ability to fuel conflict. Diamonds are found in kimberlite pipes (extinct volcanic pipes in contained areas) or in alluvial deposits. Alluvial deposits, found in Angola, DRC, Liberia, Sierra Leone and many other countries, are often located in remote areas, making them difficult to control and protect from attack and theft. Alluvial mining, which is often largely unregulated, involves the use of basic mining techniques by small-scale artisanal miners who often live an extremely meagre existence.
- 3 *A Rough Trade: The Role of Diamond Companies and Governments in the Angolan Conflict*, Global Witness, 1998. The report also criticised the failure of the United Nations to properly implement the 24 June 1998 UNSC Resolution 1176 which activated UNSC Resolution 1173, prohibiting the direct or indirect import of unofficial Angolan diamonds. It also criticised the Angolan government for failing to implement these controls.
- 4 Doug Farah, "An 'Axis' Connected to Gaddafi; Leaders Trained in Libya Have Used War to Safeguard Wealth," *The Washington Post*, 2 November 2001.
- 5 *For a Few Dollars More: How al Qaeda moved into the diamond trade*, Global Witness, April 2003.
- 6 *Terrorist Financing: US Agencies Should Systematically Assess Terrorists' Use of Alternative Financing Mechanism*, US General Accounting Office, November 2003.
- 7 Ibid.
- 8 *2003 International Narcotics Control Strategy Report*, US State Department, 1 March 2004.
- 9 *Report on Money Laundering Typologies*, Financial Action Task Force, 14 February 2003, p 24.
- 10 Kimberley Process Certification Scheme Technical Document, March 2002 outlines how the scheme works.
- 11 United Nations Security Council Resolution 1459 (2003), which was supported by all members, states its concern about the conflict diamonds fuelling conflict "strongly supports the Kimberley Process Certification Scheme, as well as the ongoing process to refine and implement the scheme . . ." Several United Nations General Assembly Resolutions also express concern about the conflict diamond problem and state support for the Kimberley Process: UNGA Resolution 1459 (2003), UNGA Resolution 56/263 (2002) and UNGA Resolution 55/56 (2001).
- 12 Kimberley Process participants are: Angola, Armenia, Australia, Belarus, Botswana, Brazil, Bulgaria, Canada, Central African Republic, People's Republic of China, Hong Kong (Special Administrative Region of China), Democratic Republic of Congo, Republic of Congo, Cote D'Ivoire, Croatia, Czech Republic, European Community, Ghana, Guinea, Guyana, Hungary, India, Israel, Japan, Republic of Korea, People's Republic of Laos, Lebanon, Lesotho, Malaysia, Mauritius, Namibia, Poland, Romania, Russian Federation, Sierra Leone, Slovenia, South Africa, Sri Lanka, Switzerland, Taiwan, Penghu, Kinmen and Matsu (Separate Customs Territory), Tanzania, Thailand, Togo, Ukraine, United Arab Emirates, United States of America, Venezuela, Vietnam, Zimbabwe.
- 13 Kimberley Process Certification Scheme Technical Document, Section I, Definitions, 20 March 2002.
- 14 Kimberley Process Certification Scheme Technical Document, Section II, IV, Annex I, 20 March 2002.
- 15 Letter dated 10 September 2003 from Alan Zimmer, Chairman of Jewelers of America and President & CEO of Reeds Jewelers to Sean Cohen of IDMA, sent on behalf of Tiffany & Co., Sterling, Zale Corporation, Finlay Fine Jewelry, Helzberg Diamonds, Ben Bridge Jeweler, J.C. Penney, and Carlyle & Co.
- 16 Review visits, comprised of experts from governments, NGOs and industry, will be carried out to countries (those who volunteer) to assess whether they are meeting the minimum requirements of the KPCS. Countries should submit annual reports by the end of March 2004 on how their laws/regulations are working. In instances where "credible indications of significant non-compliance" have been identified with a country, a review mission can be sent to the country to assess what the problems are, but only with the consent of the country involved. Kimberley Process Technical Document, Section VI, 13, Kimberley Process Administration Decision—Implementation of Peer Review in the KPCS, 30 October 2003.
- 17 Nicky Oppenheimer, Speech to Southern Africa Business Association, *Rapaport*, 26 June, 2000.
- 18 IDMA represents the 10 major diamond manufacturing centres across the globe and the WFDB represents the 23 diamond bourses around the world.
- 19 Joint Resolution of the WFDB and IDMA, 19 July 2000.
- 20 Ibid. The World Diamond Council is backed by major players in the industry, including De Beers, IDMA and WFDB.
- 21 World Diamond Council website: <http://www.worlddiamondcouncil.com>
- 22 'Governments and industry: Stop blood diamonds now!', ActionAid brochure, 4 September 2001.
- 23 Joint IDMA/WFDB resolution supporting the Kimberley Process, 29 October 2002.
- 24 KPCS Technical Document, March 2002, Section IV.
- 25 UN Security Council Resolution 1459, 28 January 2003.
- 26 The level of government oversight on the self-regulation varies from country to country. However, in many cases there seems to be little government oversight over the self-regulation. The European Union is one example where the self-regulation is directly incorporated into its own regulation.
- 27 Joint WFDB/IDMA resolution supporting the Kimberley Process, 29 October 2002; 'The Essential Guide to Implementing the Kimberley Process', World Diamond Council, 2003, p.2.
- 28 Ibid.
- 29 'Message from the President', WFDB Newsletter, Edition 5, December 2002, p.2.
- 30 Joint IDMA/WFDB resolution supporting the Kimberley Process, 29 October 2002.
- 31 'The Essential Guide to Implementing the Kimberley Process', World Diamond Council, 2003, p. 2.
- 32 Ibid.
- 33 Interview with Matt Runci, President and CEO of Jewelers of America, 9 March 2004.
- 34 'The Essential Guide to Implementing the Kimberley Process', World Diamond Council, 2003, p. 8.
- 35 For diamonds or diamond jewellery that pre-dates 1 January 2003, the Guide recommends the following language: "The diamonds herein invoiced have been purchased prior to January 1, 2003 from sources that, to the best of our knowledge, are reliable. The seller hereby guarantees that they have no personal knowledge or reason to believe that these diamonds are involved in funding conflict and/or have been traded in violation of any United Nations Resolution." p. 9.
- 36 A third-party independent should be carried out to evaluate whether management systems in place are effectively preventing trade in conflict diamonds. It goes beyond simply having the company's financial auditors examining records warranties and should be carried out by experts in both auditing/management systems and diamonds.
- 37 This was taken from a survey commissioned by WWW International Diamond Consultants. Emma Muller, 'Italian Shoppers become best friend of the diamond markets', *Business Day South Africa*, 13 May 2003.
- 38 Chaim Even-Zohar, *From Mine to Mistress*, 2002, Mining Journal Books Ltd, p. 360, 364-365; 'The 2002 Diamond Pipeline', *Diamond Intelligence*, 1 May 2003.
- 39 The Jewellery Consumer Opinion Council recently carried out a survey providing some insight into where US consumers buy their jewellery. Conducted in January 2004, 2,348 consumers were asked questions about their jewellery shopping habits. Sixty six percent of those surveyed bought jewellery from a retail store, while the remaining was bought from other places (internet, mail order, TV home shopping, etc). Of all the retail stores, department stores were the most popular choice to shop for jewellery (24%) followed closely by local independent jewellery stores (20%), discount stores (19%) and national jewellery chains (18%). Jewellery Consumer Opinion Council study, January 2004.
- 40 Hoovers website, Zale company profile: www.hoovers.com/zale/--ID_16301--/free-co-factsheet.xhtml
- 41 'Rough Diamonds Control Regulations', *Federal Register*, 4 August 2003, Vol. 68, No. 149.
- 42 Executive Order Implementing the Clean Diamond Trade Act, July 29, 2003, President George Bush, The White House.
- 43 Clean Diamond Trade Act, Section 8, Enforcement, 108th Congress, April 2003.

44 'Rough Diamonds Control Regulations', *Federal Register*, 4 August 2003, Vol. 68, No. 149.

45 Jewelers of America website: <http://www.jewelers.org>

46 Jewelers Vigilance Committee website: <http://www.jvcllegal.org>.

47 "Jewelers of America members will make every effort [Global Witness emphasis added] possible to ensure that we do not deal in the flow of Conflict Diamonds. They will notify their vendors that they will no [sic] knowingly deal in Conflict Diamonds and have trained their staff to be as knowledgeable on the issue." JA Website: <http://www.jewelers.org:8080/>, Section on Rules of Professional Conduct and Business Practices.

48 'JA Introduces Supplier Code of Conduct,' *Tacy—Diamond Intelligence*, 19 February 2004.

49 'U.S. to Complete KP Implementation By End of July', World Diamond Council press release, 29 July 2003.

50 'Message from the President,' World Federation of Diamond Bourses Newsletter, Edition 5, December 2002.

51 De Beers website:[http:// www.debeersgroup.com/hotTopics/cdlIntroduction.asp](http://www.debeersgroup.com/hotTopics/cdlIntroduction.asp)

52 'JA Introduces Supplier Code of Conduct, *Tacy—Diamond Intelligence*, February 19, 2004.

53 'U.S. to Complete KP Implementation By End of July', World Diamond Council Press Release, 29 July 2003

54 The proposed rule states that dealers must develop and implement all provisions within 90 days of the rule coming into effect. US Treasury Department, Notice of proposed rulemaking, Financial Crimes Enforcement Network, 19 February 2003; 'Anti-Money Laundering Programs for Dealers in Precious Metals Stones or Jewels,' Rapaport, 19 February 2003.

55 The proposed rule states that dealers should "provide for independent testing to monitor and maintain an adequate program." It states that the testing can be done by an officer or employee of the dealer, as long as the tester is not a person who has developed or is involved in running the compliance program. However, Global Witness questions how effective and objective testing will be if carried out by one of the company's employees.

56 'PATRIOT Act Fears Are Stifling Free Speech, ACLU Says in Challenge to Law,' American Civil Liberties Union Press Release, 3 November 2003.

57 Merle Almeida, 'India Seminar: Compliance Compulsions and Consequences', Rapaport, 29 January 2004.

58 FATF website: http://www.fatf-gafi.org/TerFinance_en.htm, *Eight Special Recommendations on Terrorist Financing*, 31 October 2001.

59 Merle Almeida, 'India Seminar: Compliance Compulsions and Consequences,' Rapaport, 29 January 2004.

60 Sheryl Katz, 'Consumer Awareness of Conflict Diamonds Rising', Rapaport, 29 July 2003.

61 'Diamonds are coveted present but not at expense of death and atrocity, reveals Valentine's Day Poll', ActionAid press release, 12 February 2003.

62 Gemesis website: <http://www.gemesis.com>; Virginia Halen, 'Has the Apollo really landed?', IDEX, Vol. 19, No. 165, January 2004.

63 There are several gem treatments now available and being used, including laser drilling, fracture filling and high-pressure, high-temperature (HPHT) treatments. While the US Federation Trade Commission does require disclosure for some of these treatments, the industry is grappling with how to ensure that this information is fully disclosed to consumers so that they know what they are buying. 'Under the Microscope,' AJM Magazine, by Julie Nash, GJG, ASA and Arthur Skuratowicz, GJG, CGA, January 2004.

64 Joint WFDB/IDMA resolution supporting the Kimberley Process, 29 October 2002.

65 'JVC 2004-2005 Board of Directors', Jewelers Vigilance Committee website: <http://www.jvcllegal.org>.

66 JC Penney website: www.jcpenney.net/company/supplier/legal/ourc.htm.

67 Letter from Alan Zimmer, Chairman and President & CEO, Reeds Jewelers to Sean Cohen of IDMA, 10 September 2003. The letter was sent on behalf of Tiffany & Co., Sterling, Zale Corporation, Finlay Fine Jewelry, Helzberg Diamonds, Ben Bridge Jeweler, JC Penney and Carlyle & Co.

68 Littman Jewelers' website, About Us Section: <http://www.fredmeyerjewelers.com>.

69 Letter from Maritza Munich, Vice President and General Counsel of Wal-Mart International Division to Global Witness, 20 February 1994.

70 'Standards for Suppliers', Wal-Mart website: <http://www.walmartstores.com/Files/SupplierStandardsdoc.pdf>.

71 Joint WFDB/IDMA Resolution supporting the Kimberley Process, 29 October 2002.

72 Letter from Amy Curran, Vice President of Fortunoff to Global Witness, 5 February 2004. It states that 'Fortunoff strongly supports the industry's self-regulation system, and fully complies with the "Voluntary System of Warranties" provision developed by the World Diamond Council and endorsed by Jewelers of America. We require that our diamond and diamond jewelry vendors subscribe to the voluntary warranty system as well. As agreed at the World Diamond Congress, a statement is printed on every invoice submitted by our vendors. We also have a signed agreement which is incorporated into our vendor contracts. We do not accept jewelry or diamonds from any potential supplier who refuses to comply with these requirements. To date, none of our suppliers has refused.'

73 Letter from Robin Bennett, Director and Senior Attorney, Zale Corporation to Global Witness, 9 February 2004. It states that 'In response, let me assure you that Zale is committed to preventing the sale of conflict diamonds and fully supports the Kimberley Process. In conjunction with the jewelry industry's adoption of the Kimberley Process in January of 2003, Zale revised its Vendor Code of Conduct to include the Kimberley Process chain of warranties. The revised code specifically requires all Zale vendors to guarantee that the diamonds and diamond-containing jewelry they provide to Zale are conflict free. Since the implementation of the revised code, Zale has consistently received the following warranty from Zale vendors supplying diamonds and diamond jewelry: [the warranty statement is included] . . . We are confident that our self-regulation policies and Vendor Code of Conduct fully conform to the requirements of the Kimberley Process and the supporting information and proposals made available to the industry by the World Diamond Council and Jewelers of America. In addition, Zale, as a corporate citizen of the United States, is now subject to provisions of the Clean Diamond Trade Act signed into law by President George W. Bush on April 25, 2003 (the "Act").'

74 Letter from Tim Jackson, Company Secretary and Investor Relations Director & Chairman of the Social, Ethical & Environmental Committee, Signet Group plc to Global Witness, 20 February 2004; Signet website: <http://www.Signetgroupplc.com/>.

75 Ibid. The letter from Signet Group plc states that 'Following the adoption of the Kimberley Process Certification System ("KPCS") Signet sent a letter to all its trade diamond and diamond jewellery. The text, based on the Jewelers of America guidance, requires them to supply the Group with merchandise that was warranted to comply with the Kimberley Process. Signet also amended its system, procedures and documentation to take account of the KPCS so that only diamonds that comply with the KPCS are accepted from trade suppliers. Any shipment of goods that is not accompanied by such a warrantee is rejected by Signet.' The letter includes the warranty statement recommended by the World Diamond Council and Jewelers of America for jewellery made from rough diamonds mined after 1 January 2003 and jewellery made from rough diamonds mined pre-dating 1 January 2003. It also states: 'Since the adoption of the KPCS Signet has also, through Jewelers of America, continued to support the further development of the KPCS and urged major suppliers to support the auditing of diamond shipments required by the KPCS and the review procedures carried out at the national level. Signet continues to monitor closely the issue of conflict diamonds and recognises that this is a issue of on-going concern. Therefore, Signet regards it as very important that the KPCS builds credibility and provides reassurance to the consumer as to the sourcing of diamonds. This is in the interest of everyone concerned with the long term health of the legitimate diamond industry.'

76 JVC 2004-2005 Board of Directors, Jewelers Vigilance Committee website: www.jvcllegal.org.

77 Ibid.

78 The letter from Michael J Kowalski, CEO of Tiffany & Co., to Global Witness states that Tiffany & Co. is taking the following measures to help prevent dealing in conflict diamonds: 1) applies "stringent criteria" in selecting suppliers of diamonds, 2) requires that its suppliers include the warranty statement on all memos and invoices provided for polished diamonds, 3) requires that its suppliers provide the source of the rough diamond on memo and invoice for every polished diamond that Tiffany & Co.'s gets 3) requires full compliance with the Kimberley Process for purchase of rough diamonds, 4) implements a "mine-of-origin" strategy' for all rough diamonds purchased and currently only purchase rough diamonds from the Diavik Mine (Rio Tinto Diamonds and Aber) in Canada and the Ekati mine (BHP Billiton) in Canada, 5) implements a chain of custody for diamonds it procures, which has been certified to the ISO 9001:2000 quality system standard. This involves an information system which tracks rough diamonds from mine of origin to point of sale. Tiffany & Co. currently does not provide this information to retail customers because the company still purchases polished diamonds from other suppliers that do not provide information on mine of origin, 6) All factories where Tiffany & Co. diamonds are polished are required to comply with the company's "stringent business standards". This involves "management visits" to evaluate how the operation is working and performing audits of factories to evaluate whether standards are being met (environment safety and conservation, wage and labour practices, health & safety, etc). Letter from Michael J Kowalski of Tiffany & Co. & Co to Global Witness, 18 February 2004.

79 Robert Weldon, 'Tiffany & Co. Opens Cutting Facility in Canada', 30 October 2003, *Professional Jeweler*. Tiffany & Co. has also opened Laurelton Diamonds, a cutting and polishing center for diamonds in Yellowknife, Northwest Territories.

80 Joint IDMA/WFDB resolution supporting the Kimberley Process, 29 October 2002.

81 Global Witness Investigations, January 2004.



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