



The Kimberley Process at Risk

Summary

The Kimberley Process has helped in combating the trade in conflict diamonds, also known as blood diamonds, but serious weaknesses remain. The United Nations has recently reported that a significant volume of blood diamonds from Cote d'Ivoire is entering the legitimate trade. Despite this, political will is waning. Governments are blocking efforts to strengthen the Kimberley Process and the diamond industry has failed to police itself. The Kimberley Process' objective to stop the trade in blood diamonds will not be met unless these challenges are confronted effectively. The millions of lives lost and widespread devastation from diamond-fuelled civil wars demands that the international community and the diamond industry make this process work so that diamonds never again fuel conflict.

What is the Kimberley Process?

The Kimberley Process Certification Scheme (Kimberley Process) is an international governmental certification scheme that was set up to prevent the trade in diamonds that fund conflict. Launched in January 2003, the scheme requires governments to certify that shipments of rough diamonds are free from blood diamonds. Countries that participate must pass legislation to enforce the Kimberley Process. They must also set up control systems for the import and export of rough diamonds. Participants are only allowed to trade rough diamonds with other participants. The aim is to prevent blood diamonds from entering the Kimberley Process system.

The Kimberley Process was negotiated by governments, civil society organisations and the diamond trade in response to civil society campaigning against the trade in diamonds that fund and fuel conflicts. Since its conception the Kimberley Process has heralded a new approach to regulating the natural resource trade, setting an important precedent for subsequent global initiatives, such as the Extractive Industries Transparency Initiative. The Kimberley Process is a political agreement and currently 71 countries participate: 46 countries and the European Union.¹

How did the Kimberley Process begin?

In 1998, Global Witness began a campaign to expose the role of diamonds in funding conflict, as part of broader research into the link between natural resources and conflict. Growing international pressure from Global Witness and other NGOs demanded that governments and the diamond trade take action to eliminate the trade in blood diamonds. In response, in May 2000, the major diamond trading and producing countries, representatives of the diamond industry, and NGOs met in Kimberley, South Africa to determine how to tackle the blood 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 the recognition that the blood 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. They wanted to ensure that consumers could buy diamonds originating in any country and be confident that they were conflict-free.

Over the next three years, the Kimberley Process was formed. In November 2002 it was endorsed by participating governments, the diamond industry and NGOs and was finally launched in January 2003. The Kimberley Process was endorsed by the United Nations General Assembly (UNGA) and the United Nations Security Council (UNSC).

How does it work in practice?

The Kimberley Process participants (governments) and observers (the diamond industry, NGOs) meet once a year to discuss the implementation of the scheme. Working groups monitor participants' implementation of the scheme, assess applications to join, gather and analyze statistics, and discuss technical issues. 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 playing an active role in negotiations and implementation.²

In 2006 participants in the Kimberley Process are undertaking a formal three year review to assess its



Kimberley Process participants meet to discuss the implementation of the scheme. Waning political support from governments has meant that there has been more talk than action at recent meetings.

effectiveness and make recommendations to strengthen it so that it achieves its aim of eliminating blood diamonds. This review presents a crucial opportunity to close the loopholes in the Kimberley Process and make sure it is credible and effective in practice. Unfortunately, key governments taking part in this review have been unwilling to take strong and much-needed actions to strengthen the Kimberley Process and respond to the situation in Cote d'Ivoire and in other countries with weak controls.

Is the Kimberley Process working?

Despite the Kimberley Process, blood diamonds still exist and are entering the legitimate trade. Although the scheme makes it more difficult for diamonds from rebel held areas to reach international markets, there are still significant weaknesses in the scheme that undermine its effectiveness and allow the trade in blood diamonds to continue.

A United Nations Group of Experts on Cote d'Ivoire has recently found that poor controls are allowing significant volumes of blood diamonds to enter the legitimate trade through Ghana, where they are being certified as conflict-free, and through Mali. As well as pointing to the need for stronger diamond controls in the region, the Group of Experts recommends that international trading centres introduce better systems for identifying suspicious shipments of rough diamonds. Many other diamond producing countries have weak government diamond controls that cannot guarantee the diamonds they export are conflict-free.³

In the DRC since the peace agreements signed in 2002, fighting between the national army and various rebel groups has continued in parts of the country, particularly in the east. Some of this fighting has centred around diamond mines and other areas rich in natural resources.

Weaknesses in the Kimberley Process are found across the diamond pipeline, including in countries with trading, cutting and polishing centres. A recent United States Government Accountability Office (GAO) report shows that blood diamonds may be entering the US because of major weaknesses in the implementation of the Clean Diamond Trade Act, the US law which implements the Kimberley

Process Certification Scheme (KPCS). According to the GAO report, “the United Nations (UN) and other sources report that illicit trading of rough diamonds still exists and could potentially finance civil conflicts as well as criminal and terrorist activities.” The GAO report further concludes: “To succeed, KPCS depends on all participants having strong control systems and procedures for collecting and sharing trade data on rough diamonds, for inspecting imports and exports of these diamonds, and for tracking confirmations of import and export receipts.”⁴

There is still a flourishing illicit trade in diamonds globally. They are a high value commodity that are easily smuggled and Kimberley Process controls have not been able to stop this. For instance in Sierra Leone Kimberley Process experts assess the illicit trade to be between 15 and 20%.⁵ This is a problem to the Kimberley Process because any kind of illicit trade exposes gaps in the system that unscrupulous diamond traders can use to trade in blood diamonds. In addition, the illicit trade has been shown to fund terrorism and aid money-laundering activities. Many illicit traders are known, but the industry is still largely secretive and unwilling to tackle the problem by working more proactively with law enforcement agencies. The diamond industry has failed to honour its commitments to support the Kimberley Process by not policing itself effectively while governments have failed to step up to the line and hold the industry accountable for this.

How to make the Kimberley Process more effective

The Kimberley Process must be strengthened significantly. Global Witness is calling for the Kimberley Process to be effectively implemented in all participants’ territories. The Kimberley Process must require that participants have strong diamond control systems in place that are fully implemented. This must include adequate checks to make sure the diamond companies are complying with the scheme. The diamond industry must also deliver on its commitments and operate in a more accountable and transparent manner.

The Kimberley Process is increasingly being hailed as a success and the problem of blood diamonds is perceived to be solved by some. This is leading to complacency and a lack of political will to improve the scheme.



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Government controls and industry oversight must be strengthened in countries with alluvial diamond mines.

The following actions must be taken by the Kimberley Process governments if this agreement is to be effective and credible in stopping the trade in blood diamonds.

- **Strengthen government controls**

The Kimberley Process should require a set of specific controls to be implemented in every participant’s territory. Currently, there are no baseline standards that all participants control systems must meet. Controls over the trade in diamonds in every country should underpin the Kimberley Process and ensure traceability from mine to export. Although on paper a participant’s diamond control systems may look strong, all too often the enforcement is hollow. As a result, many participants’ controls over their diamond sector are weak or poorly enforced, creating gaps that blood diamonds can infiltrate. Many countries do not even carry out adequate checks to ensure that the industry is complying with Kimberley Process requirements and there has not been a systematic evaluation of how governments are monitoring the industry.

A set of controls specific to participants (artisanal diamond producing, trading, and cutting and polishing countries) should be required. These should outline required elements for participants’ systems of control, including verification of industry compliance.

- **Increase government oversight of the diamond industry**

As the industry has failed to police itself effectively, the Kimberley Process must step in and require the industry to set up auditable systems to tackle blood diamonds at all points across the diamond pipeline. Controls and oversight,

both by government authorities and the industry, must be robust and effectively enforced all along the diamond pipeline. This includes physical inspections of imports and exports to make sure that packages are in compliance with the Kimberley Process as well as random sampling of companies trading in rough diamonds to verify that they are in compliance with the Kimberley Process.

To have most impact on preventing the trade in blood diamonds, government monitoring and verification of industry compliance with the Kimberley Process must explicitly be made a minimum requirement of the scheme. The peer monitoring system should evaluate how a country is monitoring and verifying industry compliance as an integral part of its reviews.

- **Publish statistics**

To increase the transparency and openness of the Kimberley Process, the scheme should publish detailed statistical data on diamond production and trade which has been compiled since 2003 and so far not made public. Statistical data is an important way to detect anomalies in the diamond trade that could indicate blood diamond trading. This information is not commercially sensitive. It should be made available to external organizations that can provide assistance to countries to strengthen Kimberley Process control systems.

- **Finance the scheme**

Greater and sustained resources are needed to better coordinate and strengthen implementation of the scheme. The Kimberley Process is not funded and is run by those that volunteer time and resources. This is not sustainable and places an undue burden on those who volunteer. A funding arrangement must be found that will result in more equitable burden sharing in terms of effort and financing and will increase assistance for capacity building of governments and civil society. To ensure effective involvement of civil society, member countries should actively engage and finance NGOs to promote effective Kimberley Process implementation at the country level and hold governments and the industry to account, particularly in countries with artisanal mining sectors.

For more information on Global Witness' recommendations to strengthen the Kimberley Process, please see the independent review of how the scheme is working commissioned by Global Witness: *An Independent Commissioned Review Evaluating the Effectiveness of the Kimberley Process* at www.globalwitness.org/diamondreports. Global Witness has also made an open submission to the Kimberley Process review:

http://www.kimberleyprocess.com:8080/site/www_docs/related_docs1/review_kpcs_-_response_global_witness.pdf

References

- 1 For a full list of current participants see the Kimberley Process website <http://www.kimberleyprocess.com:8080/site/?name=participants>.
- 2 To read the Kimberley Process Certification Scheme Technical Document, see <http://www.kimberleyprocess.com:8080/site/?name=kpcs&PHPSESSID=e5b162e1ea8331c29582a1906df9c2a>
- 3 See Global Witness and Partnership Africa Canada press release, UN Report Condemns Conflict Diamond Exports, 9 October 2006. http://www.globalwitness.org/press_releases/display2.php?id=382
- 4 See GAO report, Agency Actions Needed to Enhance Implementation of the Clean Diamond Trade Act, September 2006. <http://www.gao.gov/new.items/d06978.pdf>
- 5 A Kimberley Process review visit to Sierra Leone in 2005 estimated that up to 20% of production is being smuggled out through neighbouring countries.



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