

# DE BEERS

FAMILY OF COMPANIES

**Dialogue 9:** The Kimberley Process Certification Scheme: Scope, implementation and performance

**Participants:** De Beers (Andrew Bone, Anna Klukowska, Stephen Lussier, James Nicholson, David Prager); Africa Matters (Baroness Chalker, Debbie Goldthorpe); Business and Human Rights Resource Centre (Kavita Prakash-Mani); Global Witness (Annie Dunnebacke, Elly Harrowell); Human Rights Watch (Tom Porteous); Resource Consulting Services (Estelle Levin, Harrison Mitchell); Maplecroft (Gus Macfarlane); Standard Chartered (Yulanda Chung); Transparency International UK (Jeremy Carver, Chandrashekar Krishnan, Karl Ziegler); Transparency International/International Business Leaders Forum (Birgit Errath); Michela Wrong

**Moderator:** Alyson Warhurst (Warwick University, Transparency International (UK) and Maplecroft)

---

Dialogues take place under the Chatham House Rule. The Chatham House Rule reads: "When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed".

- **Zimbabwe dilemma:** Unacceptable activities in Zimbabwe (and elsewhere) have generated a consensus that action must be taken – for local citizens and for the integrity of the Kimberley Process (KP). As with other areas of challenge, care must be taken against unintended consequences. The KP should consider suspending Zimbabwe if it is to preserve its own credibility in the eyes of consumers. Alternatively, Zimbabwe should consider self-suspension. However this alone will not solve the problems in Zimbabwe. Suspension must be accompanied by constructive action to help Zimbabwe rebuild its diamond industry.
- **Inherent weaknesses of certification initiatives:** Certification schemes face a range of inherent challenges, particularly where they rely on the political will and internal controls of certain governments, and where there is corruption. Arguably, looking at only one point in the value chain is insufficient, with the ideal being implementation across the whole value chain. Cutting and polishing centres would be natural points at which to detect illicit diamonds, for example. Account needs to be taken, however, of unintended consequences for artisanal diggers in Africa who are largely involved in these activities due to poverty and a lack of alternative livelihoods. Nonetheless, there may be lessons to be shared with other schemes, such as the Forest Stewardship Council standards.
- **KP role and implementation:** Consideration should be given to the Preamble of the KP Document, which makes an explicit reference to human rights. To some degree the necessary language and basic mechanisms are already in place (e.g. human rights, peer review) to support a broader operating role for the KP. Nonetheless there is scope for improvement in terms of:
  - Clarification of and support for the KP's role in upholding Human Rights standards in diamond mining industries
  - Strengthening of the implementation tools that have emerged during its evolution, including audit processes
  - Stronger implementation of standards and provision of resources
- **Parallel initiatives:** The KP should be seen as one tool within a toolbox that industry and civil society can bolster by cooperating on parallel initiatives to tackle issues outside its formal scope and to assist in its implementation.
- **Scope of participants:** The KP involves a relatively narrow type of actor – and would benefit from the involvement of key players such as Interpol, finance regulators etc. Likewise, KP supporters should explore potential collaboration and information sharing with similar initiatives such as the EITI, as well as more coherent and "joined-up" communication with governments and other civil society and industry initiatives.
- **Market role:** There is potential for the market to play a stronger role:
  - A legal framework could be established to render contracts "contaminated" by conflict diamonds unenforceable. This would motivate the whole of the value chain in excluding suspect stones. However, such a system would require an appropriate legal framework and challenges remain in terms of accurate and economical tracing.
  - Individual companies can establish their own supply frameworks to guarantee the exclusion of conflict diamonds in a way that industry initiatives cannot. This could negatively affect small producers however, and is based on the assumption that consumers would be willing to pay for such assurance.
- **Government role:** Recent events have shown that some governments are facing significant challenges with respect to their internal controls and the international enforcement of the KP – from mine to export. Reasons range from inadequate resources to corruption, which can weaken verification mechanisms. Any attempt to improve implementation is reliant on incentivising governments – and ideally the permanent members of the UN Security

Council. A first step would be for such governments to clarify and support the KP's role in upholding human rights standards in the diamond mining sector. It was also recognised that work with the UK and South African governments, as well as the EU, would be useful at this stage.

- **Motivating governments:** The nature of democratic politics means that government action and motivation can be relatively reactive and short-lived. It is up to civil society and industry to work together to generate sustained political impetus both within and without the KP framework by:
  - Helping educate governments as to the commercial realities of the trade and the chain of custody
  - Communicating with governments using a single, clear message
  - Proposing simple and workable action points targeting the small number of "problem" countries
  - Identifying potential "champions" (individual politicians or governments – including in the UN Security Council)
  - Exploring the role of the media as a powerful motivational tool (e.g. by focusing on senior criminal figures)
  - Providing strong examples of where current policies might be improved
  - Engaging political figures at a more senior level than those directly involved in the KP process

### Summing up

- There is scope for civil society and industry to work together and encourage governments to move the agenda forwards, both within the KP framework and outside it.
- The **first** key area of focus should be on technical standards, helping governments identify areas in which they can better implement the scheme in terms of legislation, procedures, training, monitoring, international cooperation etc.
- The **second** area of focus should be the development and human rights aspects of the debate, seeking to move forwards poverty alleviation, the protection of basic human rights in the context of natural resource extraction and artisanal mining.
- The **third** area of focus should be advocacy, in order to move stakeholders from a relatively reactive stance based on the KP to a more proactive stance based on a broader range of issues and tools. Such advocacy should also aim to enhance the KP itself by giving it better "teeth" with respect to discipline mechanisms, peer review and audits, and the artisanal mining working group.

### Action points

The following Action Points have been proposed to improve the performance and scope of the KP, and to help ensure that the diamond industry is better able to improve its contribution to development and the protection of human rights.

#### Establish working "KP Ginger Group"

1. Establish a working group made up of industry and civil society to act as a common platform to engage with governments outside of the KP framework, and to work on the promotion of human rights, ethics and development in the diamond value chain
2. The institutions that participated in the dialogue (or who gave apologies) would be invited to a first meeting to get this process moving e.g. early September. See below for the "agenda" of that group.

#### KP advocacy

3. Call for participants to examine opportunities to improve the application of the KP by governments, including stronger internal controls, improved coordination, agreement on interim suspension and control mechanisms with clear criteria, and spot checks on companies
4. Call for participants to consider suspending Zimbabwe in order to protect the integrity of the KP and to allow Zimbabwe to get the situation in Marange under control with a view to an end to any suspension
5. Call for participants to consider investigating and monitoring both the status of KP implementation in Guinea and Lebanon, and the Venezuelan diamond industry
6. Call for participants to clarify and support the KP's role in upholding human rights standards in the diamond mining sector
7. Call for participants to investigate opportunities for engagement with a broader range of actors, including law enforcement, anti-corruption and human rights bodies, supported by more effective audit tools and standards
8. Call for participants to better coordinate with other initiatives to maximise the impact of their external engagement, and send a coherent message on development, human rights and corruption impacts

#### Parallel advocacy

9. Establish a sub-working group to encourage improvements to technical standards within the regulation and control of the diamond value chain and in government diamond offices
10. Establish a sub-working group to examine potential international standards relating to the contribution of diamond mining and processing to development, poverty reduction and the protection of basic human rights