



Fatal
Transactions

**The Kimberley Process and the United Nations:
lessons learned and recommendations**

Briefing paper in preparation for Seminar on Natural Resources and Conflict, February 19 & 20 2008 in New York, organized by Global Witness and the Heinrich Böll Foundation

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The Kimberley Process Certification Scheme (KPCS), key Resolutions of the United Nations Security Council (UNSC) and the United Nations General Assembly (UNGA)

The United Nations, mainly through the UNSC and the UNGA, has played an important role in the genesis and development of the KPCS, an international control regime aimed at preventing conflict diamonds to enter into the legitimate trade.

The earliest forerunner of the KPCS stems from an embargo imposed by the UNSC in June 1998 on unofficial diamonds from Angola. UNSC Resolution 1173 prohibited all states to import diamonds unaccompanied by a Certificate of Origin issued by the Angolan government. In May 1999, UNSC Resolution 1237 established a Panel of Experts to investigate violations of, among other things, the diamond embargo.

This model was later replicated in the cases of Sierra Leone, Liberia and Côte d'Ivoire. The UNSC through Resolution 1306 (July 2000) called for a Certificate of Origin regime in Sierra Leone to prevent the export of illicit diamonds and established an Expert Panel a month later. In March 2001, Resolution 1343 prohibited all states to import diamonds from Liberia and at the same time established a Panel. Sanctions on Ivorian diamonds were imposed in December 2005 by UNSC Resolution 1643, which again mandated a Panel to monitor compliance.

The Certificate of Origin regime called for by the UNSC in Angola was the blueprint for what was to become the KPCS. However, the case of Angola, and later those of Sierra Leone and Liberia, showed that country-specific diamond sanctions were ineffective and that the problem had to be addressed by a certification system of global scope. The foundation of such a scheme was laid when in May 2000 the South African government hosted a multi-stakeholder meeting between governments, the industry and NGOs to address the issue of conflict diamonds. This event kick-started a series of 'Kimberley Process' meetings, which quickly gained support from a large number of countries involved in the diamond trade. At the time of the KPCS' formal launch in November 2002, its reach was broadened to virtually every country ($\pm 98\%$) involved in the diamond trade.

UN backing was essential in achieving that amount of buy-in. A key Resolution, as it prompted member states to join the ranks of the initiators, was voted unanimously by all 191 members of the UNGA in December 2001. In contrast with previous UNSC Resolutions on conflict diamonds, which had been *ad hoc* and country-specific, UNGA Resolution 55/56 addressed the issue in a generic manner¹ and encouraged "[...] the countries participating in the Kimberley Process to consider expanding the membership of the Process in order to allow all key States with a significant interest in the world diamond industry to participate in further meetings [...]" Further legitimacy was conferred to the KPCS in January 2003 by Resolution 1459 in which the UNSC expressed its 'strong support'. Both Resolutions also provided participant states with a legal tool in case trade restrictions implied by the KPCS² would be challenged before a panel of the World Trade Organization (WTO).

¹ The title of the Resolution reads: 'The Role of Diamonds in Fuelling Conflict: [...]'

² States participating in the KPCS are not allowed to trade in rough diamonds with non-participants. In order to achieve maximal legal certainty, a number of participants to the KPCS applied for and obtained a WTO waiver. The UNSC and UNGA support for the KPCS provided the WTO with a key argument to grant the waiver.

Recommendation to the UNSC and UNGA:

- The UNSC and UNGA should, as they have done up to the present, continue to support and recognize the KPCS through Resolutions in order to sustain the level of legitimacy the KPCS enjoys in the eyes of the international community.

Conflict resolution, the UN and KPCS: lessons learned and recommendations

The response of the UN to diamond related financing mechanisms in the conflicts in Angola, Liberia and Sierra Leone, has shown serious inadequacies. The most obvious problem has been the late recognition of the central role diamonds played in those conflicts³. On the other hand, the recent conflict in Côte d'Ivoire provides positive examples of how the KPCS and the UNSC can mutually reinforce their effectiveness in conflict resolution.

In Angola União Nacional para a Independência Total de Angola (UNITA) resumed its decades-long struggle in 1992, after it had been beaten by its rival, the Movimento Popular de Libertação de Angola (MPLA), in UN monitored elections. UNITA very quickly took control over Angola's most lucrative diamond fields and it is estimated that diamond sales earned them US \$ 2,5 to 3,2 billion between 1993 and 1997⁴. Still, it took the UN until 1998 to impose an embargo on unofficial diamonds from Angola.

Also in Sierra Leone the diamond-rich areas of Kono and Tongo Field were central to the geostrategic considerations of the Revolutionary United Front (RUF), and the mastermind behind it, the Liberian warlord Charles Taylor. The RUF, which started its insurgency in 1991, gained control over diamond center Koidu in October 1992 and, throughout the conflict, its terror tactics aimed to safeguard its vital diamond revenues. There are no precise data available, but a UN Panel of Experts estimated the RUF's annual income from blood diamonds between US \$ 25 and 125 million⁵. In an act of stupefying denial, the UN and the Clinton administration in July 1999 brokered a peace agreement that rewarded RUF leader Foday Sankoh for the havoc he wreaked on the lives of tens of thousands of people, with the official control over Sierra Leone's diamond mines⁶. The RUF's non-respect of the agreement culminated in the abduction of 500 UN peacekeeping troops in May 2000 and a UN embargo on unofficial diamonds finally followed in July of the same year.

A year later - more than a decade after Charles Taylor had started the destabilization of the West African region - the UN also imposed sanctions on diamonds coming from Liberia (March 2001). The embargo only came after a small Canadian NGO - not the UN or the Antwerp High Diamond Council - revealed that throughout the nineties enormous quantities of

³ At a more general, not diamond-specific level, there are also lessons to be learned concerning the UN sanctions regime and the role peacekeepers have played in civil wars fuelled by natural resources. The British NGO Global Witness provides a concise overview of these issues and offers a good set of recommendations to address them. See the briefing document: *The Sinews of War. Eliminating the Trade in Conflict Resources*, Global Witness, November 2006, pp. 13-16.

⁴ Jackie Cilliers and Christian Dietrich (ed.), *Angola's War Economy. The Role of Oil and Diamonds*, Institute for Security Studies, South Africa, 2000, p. 284. Although the author of the chapter contests these figures, which are derived from estimates of De Beers and the UK NGO Global Witness, it is clear that diamond revenues were largely sufficient to sustain UNITA's armed struggle.

⁵ See the Sierra Leone Panel of Experts report of December 2000 (S/2000/1195, Par. 1). The report further reads: "Whatever the total, it represents a major and primary source of income for the RUF, and is more than enough to sustain its military activities."

⁶ For a critical analysis of the 'Lomé Accord', see: Lansana Gberie, *A Dirty war in West Africa. The R.U.F. and the Destruction of Sierra Leone*, London, 2005, pp. 156-159.

diamonds had been exported from Liberia to Antwerp⁷, the world's foremost diamond trading center. Many of these diamonds originated from areas under RUF control in Sierra Leone, which had a long tradition of bringing a considerable share of its production to the world market via Monrovia⁸.

The recent case of conflict diamonds from Côte d'Ivoire has been very instructive as it revealed serious weaknesses in the KPCS but at the same time showed how the KPCS can strengthen the UN sanctions regime and vice versa. The civil war in Côte d'Ivoire broke out in September 2002, just a few months before the KPCS became operational. From the outset, the Ivorian government stopped issuing KP certificates because the rebels had taken control of the diamond regions of Bobi-Séguéla and Tortiya in the North. Again an NGO report was needed to call for action against the fact that rebels were smuggling diamonds out of the country to sell them to international traders⁹. A UN diamond embargo followed a month after publication of the report and a KP review team went to Ghana and Togo to investigate the issue. The KP team, however, failed to timely produce a report and it was a UN Expert Panel that revealed that the 'Forces Nouvelles' earned between US \$ 9 and 25 million annually from smuggling diamonds to mainly Ghana, where they were certified by the designated KP authority¹⁰. On the other hand, it was a team of KP experts that provided valuable assistance to the UN Panel in assessing the extent of diamond production in the north of Côte d'Ivoire¹¹. In the ensuing period, the KPCS also took serious measures to enhance KP compliance in the region.

The same case also pointed out the valuable contribution UN Expert Panels *can* make to complement the KPCS peer review system for monitoring. The main KPCS monitoring tool are review visits, which occur at the invitation of participant countries. Currently they take place approximately once every three years. The visits are supplemented by review missions and expert missions in problematic countries, but usually these only last for two days up to a week. The mandates of UN expert panels allow them to be on the ground for relatively long periods of time, which creates an opportunity for more profound investigations of non-compliance.

Recommendations to the UNSC and the KPCS:

- In countries tainted by diamond-financed insurgencies, the UNSC should impose diamond sanction regimes far more promptly than it has done in the past. The KPCS should fulfill its role of conflict-resolving tool by timely providing the UNSC with the evidence needed to justify sanctions. This way the KP can enhance its credibility as a genuine effort by diamond producing countries and the industry to stem the trade in conflict diamonds.
- UN Expert Panels should complement the KPCS peer review system for monitoring and publicly report cases of non-compliance. The KPCS should continue to share information and know-how with the appropriate UN bodies in order to, among other things, strengthen the UN sanction regime. In doing so, the KPCS lives up to its own recommendation that calls for a strong cooperation with the UN¹².

⁷ *The Heart of the Matter: Sierra Leone, Diamonds and Human Security*, Partnership Africa Canada (PAC), January 2001, p. 47. The authors estimated that, although diamond production in Liberia is negligible, in 1995 alone the dollar value of this trade was between 350 and 500 million.

⁸ See, for example, the testimony of PAC director Ian Smillie on 7 and 8 January 2008 in the Charles Taylor trial before the Special Court for Sierra Leone: <http://www.sc-sl.org/taylor-transcripts.htm> (last viewed on 20 January 2008).

⁹ *Making it Work: Why the Kimberley Process Must Do More to Stop Conflict Diamonds*, Global Witness, November 2005, p. 4.

¹⁰ S/2006/735, October 2006, Par. 139.

¹¹ *The Kimberley Process Certification Scheme. Third Year Review*, KPCS, October 2006, pp. 18-20.

¹² *Ibidem*, p 24. The recommendation reads: "Through the Chair, the KP should continue to work closely with the UN as well as its various branches, agencies, 'Expert Panels' and other appropriate international agencies to improve information exchange and to broaden the reach of the KP."

Conflict prevention and peacebuilding, the UN and KPCS: the way forward

The nexus between natural resources and conflict is widely recognized by academics¹³ and NGOs and the last decades sadly have furnished ample empirical underpinnings of it, mainly on the African continent. Within the UN, there is an ongoing debate on the issue and on how to address it. The Belgian chairmanship of the UNSC on 25 June 2007 launched a generic debate on natural resources and conflict¹⁴, as opposed to the *ad hoc* conflict-resolving manner in which the UNSC has hitherto dealt with it. In a concluding presidential statement, a case was made to address the problem at the stages of conflict prevention and peacebuilding as well. During the debate, the Council referred to its Resolution 1625 (Sept. 2005) through which it decided to strengthen its role in conflict prevention, especially in Africa. As for peacebuilding, the Council saw a crucial role for the relatively young Peacebuilding Commission.

The KPCS in several ways acts as an important source of inspiration for this debate. Firstly, it points out the value of commodity certification for conflict prevention. Although the KPCS as yet is not a 100 % watertight control regime, it undeniably has made it harder for rebel groups to finance their war efforts. Its relative success has led the International Conference on the Great Lakes Region (ICGLR) to call for a 'regional certification mechanism for the exploitation, monitoring and verification of natural resources within the Great Lakes Region'¹⁵. Currently, the Belgian and German governments are financially supporting pilot projects aimed respectively at working out a certification scheme for copper/cobalt in the DRC and coltan in Rwanda¹⁶.

Transparency and good governance in natural resource management are by now widely recognized as important tools for conflict prevention and peacebuilding. Again, the KPCS makes a significant contribution to government accountability concerning resource revenues by publishing statistics on, among other things, diamond exports per participant¹⁷. Coupling these statistics with export tax regimes, it is easy to calculate government revenues from every participant's diamond industry. This way, the KPCS acts in the spirit of the Extractive Industries Transparency Initiative, a voluntary scheme that aims at full publication of company payments and government revenues from oil, gas and mining¹⁸.

Thirdly, the KPCS offers a forum where diamond related problems can be discussed, even if they lie outside the KP's current mandate. The core objective of the KPCS is to prevent the trade in conflict diamonds¹⁹, which are defined as 'rough diamonds which are used by rebel movements to finance their military activities, including attempts to undermine or overthrow legitimate Governments.'²⁰ This definition does not cover human rights abuses or

¹³ See, for instance, the publications of: Paul Collier (<http://users.ox.ac.uk/~econpco/research/africa.htm>); Michael Ross (<http://www.sscnet.ucla.edu/polisci/faculty/ross/>); Anke Hoeffler (<http://users.ox.ac.uk/~ball0144/research.htm>); Philippe Le Billon (<http://www.geog.ubc.ca/~lebillon/>); Macartan Humphreys (<http://www.columbia.edu/~mh2245/papers1/>).

¹⁴ For an account of the debate, see: <http://www.un.org/News/Press/docs/2007/sc9060.doc.htm> (last viewed on 25 January 2008); for the concept paper in preparation of the debate, see: S/2007/334 (June 2007).

¹⁵ International Conference on the Great Lakes Region, *Pact on Security, Stability and Development in the Great Lakes Region*, December 2006, Art. 9 c).

¹⁶ For more information on these projects, see: presscenter.org/repository/news/586/fr/586d6766ad1f123bcb71bebaa9f9fe49-fr.pdf; <http://www.bicc.de/fataltransactions/aktivitaeten.html>

¹⁷ See: <https://mmsd.mms.nrcan.gc.ca/kimberleystats/publicstats.asp> (last viewed on 10 February 2008). A positive side-effect is also that the KPCS, by curbing illicit cross-border diamond flows, has effectively increased these revenues for a number of countries.

¹⁸ See: <http://eitransparency.org/>

¹⁹ Interlaken Declaration of 5 November 2002 on the Kimberley Process Certification Scheme for Rough Diamonds.

²⁰ UN General Assembly Resolution 55/56 (Jan. 29, 2001).

development issues in countries where predatory regimes, led by self-serving elites, create a breeding ground for grievances that can lead to instability. However, recent initiatives such as the Diamond Development Initiative and the KP Working Group of Artisanal and Alluvial Producers do show a broadening of the KP's reach beyond its core-mandate.

Recommendations to the UNSC and UNGA:

- UN diplomats should step up their efforts to muster support for a UNGA and, ultimately, UNSC Resolution on conflict resources. Such a Resolution should form the basis for an integrated UN approach of the issue at the stage of conflict prevention, conflict resolution and peacebuilding. Important aspects of such an approach are a more effective sanctions regime with regard to conflict resources, and well adapted mandates for peacekeeping forces and the Peacebuilding Commission.
- The UNGA and UNSC should adopt a Resolution expressing support for the Extractive Industries Transparency Initiative and recognizing its potential as a tool for conflict prevention and peacebuilding.

Fatal Transactions, February 2008

Fatal Transactions is an international campaign that strives for a just and fair exploitation of Africa's natural resources. It was launched in October 1999, by a consortium of European civil society organisations working in close collaboration with African partners, to increase public awareness of the funding of rebel armies across Africa through the trade in so-called 'conflict' or 'blood' diamonds. Such 'fatal transactions' directly link Western consumer goods to armed conflict and human rights violations in Africa. The campaign aims to transform these fatal transactions into fair transactions that truly benefit the people by fostering growth, alleviating poverty, and help build a just and equitable society, and has since acted as a critical watchdog of governments, international institutions and extractive industries. For more information please contact Anneke Galama at anneke.galama@niza.nl Or visit www.fataltransactions.org

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