
Conflict Diamonds: Crossing European Borders?

A Case Study of Belgium, the United
Kingdom and the Netherlands.



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Introduction

This report seeks to examine the capacity of three EU Member states: Belgium, the Netherlands, and the UK, to use a certification system to check the origin of diamonds imported. Governments and the diamond industry have come under pressure to stamp out the trade in "conflict diamonds" -diamonds which are traded in order to raise funds to finance civil wars in Africa.

In countries such as Angola, Sierra Leone, and the Democratic Republic of Congo, proceeds from the sale of diamonds have provided substantial financing for rebels who battle not only against governments forces, but also murder and brutally dismember civilians, have instituted slave labour, and caused mass homelessness and economic collapse in the areas they control. Diamonds mined in rebel-held areas can be easily smuggled out and quickly find their way into the mainstream diamond trade. Neighbouring countries have sometimes become involved in the lucrative business of trading in such conflict diamonds. For example, Liberia has notoriously helped Sierra Leone's rebels to market their diamonds.

In order to end these civil wars, non-governmental organisations (NGOs) began a campaign to raise awareness of the role that diamonds play in financing these conflicts. "Fatal Transactions" is the name of a joint campaign organised by five European NGOs to tackle the issue of conflict diamonds. As part of this campaign Global Witness (UK), Intermóm (Spain), Medico (Germany), NiZA (the Netherlands), and Novib (the Netherlands) have been lobbying governments and the European Union (EU), as well as the diamond industry, to implement effective certification mechanisms to prevent conflict diamonds from entering the legitimate diamond business.

At the United Nations (UN), resolutions have been adopted to ban diamond import from Angola and Sierra Leone unless they are accompanied by certificates of origin. Such a certificate is a document, issued by the legitimate government authorities in Angola and Sierra Leone, that officially identifies the attached diamond as a diamond which does not come from rebel-held areas. The import of diamonds from Liberia, meanwhile, has been completely banned by the UN in 2001.¹ These UN resolutions were translated in EU regulations and national laws of EU member states.

Government officials from more than 30 countries that produce, process, and import diamonds, and an official from the European Commission (EC) have been meeting frequently with representatives of the diamond business and NGOs in order to discuss the issue of conflict diamonds. The first discussions about how to develop a system to verify the origins of rough diamonds (the unworked stones) took place in Kimberley, South Africa, in May 2000. Following this first meeting, the ongoing dialogue on the issue of conflict diamonds has come to be known as the "Kimberley process." On July 5th, 2001, participants in the Kimberley process reached a preliminary agreement that all countries involved in the mining or trade of diamonds must issue internationally-recognised certificates for all diamonds (exempting conflict/smuggled diamonds) in order to confirm their legitimate origin. The Kimberley process also agreed on the basic elements of the certification system. The EU member states could take a co-ordinate

¹ The main UN resolutions concerned: S/Res/1173 (1998), S/Res/1176 (1998), S/Res/1295 (2000) S/res/1306 (2000), A/res/55/56(2001), S/Res/1336 (2001) S/Res/1343 (2001) (see Annexes)

position to advance the Kimberley process and the certification system, but have so far failed to do so.

NiZA, the Netherlands Institute for Southern Africa, one of the Dutch NGOs participating in the Fatal Transactions campaign, is concerned about the capacity of European diamond-importing countries to check the certificates which in the future might accompany all rough diamonds. Therefore, in 2001, NiZA commissioned SOMO (Centre for Research on Multinational Corporations, Amsterdam, the Netherlands) to research the border control practices used in relation to diamonds in Belgium, the Netherlands and the UK. For this short research project, interviews were done with government officials in the three countries who are involved with the implementation of the UN resolutions on conflict diamonds or the Kimberley process. Customs officers involved in carrying out measures to implement and verify the implementation of those measures were also interviewed. In addition, relevant trade data and available literature was analysed.

This report contains the main results of the research and is organised as follows:

- Chapter One: the UN Security Council resolutions and European regulations on conflict diamonds.
- Chapter Two: an overview of the volume of diamonds from Sierra Leone and Angola being traded in Belgium, the UK and the Netherlands and the probability of conflict diamonds being indirectly imported (via an intervening country) into these countries.
- Chapter Three: how the EU and national governments have translated the UN resolutions related to conflict diamonds and certification systems into regulations to be followed by customs officers.
- Chapter Four: the practice of border control measures on rough diamonds in the studied countries.
- Chapter Five and Six: Conclusions and recommendations.

It is Fatal Transactions' hope that this report will contribute to a more pro-active role on behalf of the EU and its member states, in order to establish a more effective international certification system.

1 The Implementation of UN resolutions

In order to understand what sort of procedures (inspections, etc.) need to be carried out at the border in relation to the import and/or export of diamonds, it is necessary to clarify the contents of UN resolutions relating to conflict diamonds. In addition to these resolutions, the actions taken by the EU to enact on the resolutions are described.

In this chapter the UN Security Council resolutions and European regulations on conflict diamonds that needed to be translated into national law in Belgium, the UK, and the Netherlands are summarised.

In the next chapter it will be shown by means of figures on diamond trade what responsibility Belgium, the UK and The Netherlands- the three countries researched in this report- have for implementing the UN resolutions. In chapter three the concrete customs measures these countries have taken to observe UN Security Council resolutions are being analysed.

1.1 UN resolutions on conflict diamonds

On December 1st, 2000, the UN General Assembly unanimously adopted a resolution that seeks to prevent the illicit trade in rough diamonds from fuelling brutal armed conflict (A/RES/55/56) (*annex IV*). In taking up this agenda item, the General Assembly recognised that conflict diamonds provide an important source of funding for rebel groups in Angola (UNITA) and Sierra Leone (RUF). The General Assembly called for a workable worldwide system of certification for rough diamonds.

This UN General Assembly resolution followed several Security Council resolutions that contained measures to end the violence in Angola and Sierra Leone and stop support for the rebels in those two countries (via funding mechanisms, arms provision, or otherwise). Some of these Security Council resolutions dealt with stopping the trade in diamonds mined in rebel-held areas, the proceeds from which were being used to finance war operations and buy arms. Only those aspects of the resolutions dealing with measures to be taken at the border to regulate the import of conflict diamonds in European countries are described below.

UN sanctions against Angola

On June 12th, 1998, the Security Council adopted Resolution 1173 (*Annex I*) prohibiting all states from directly or indirectly importing into their territories all diamonds from Angola not accompanied by a certificate of origin issued by the Government of Angola. The resolution calls upon all states and all international and regional organisations to "act strictly in accordance with the provisions of this resolution notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted prior to the date of adoption of this resolution".² Through Resolution 1176, which was adopted on June 24th, 1998, the UN conditions for Angolan diamond trade came into force.

² S/Res/1173 (1998), 17.

UN Security Council Resolution 1295 (*Annex II*), adopted on April 18th, 2000, not only established a monitoring mechanism on sanctions against UNITA, but also invited all states closely involved with the diamond industry to co-operate in developing practical measures to limit access by UNITA to the legitimate diamond market and to report on measures taken in this regard.³

Certificates of origin for diamonds from Sierra Leone

On July 5th, 2000, the UN Security Council adopted Resolution 1306 (*Annex III*), which prohibited any direct or indirect import of rough diamonds from Sierra Leone, except for diamonds accompanied by a certificate of origin issued and regulated by the government of Sierra Leone. These UN measures were established for an initial period of 18 months after which the situation in Sierra Leone would be reviewed and a decision would be made as to whether or not the measures should be extended. The certification system (meaning the system whereby diamond exports from Sierra Leone are being accompanied by a certificate of origin) became operational on October 27th, 2000.⁴

As with the UN resolution on trade in Angolan diamonds, the UN resolution on Sierra Leone states 'that all states and organisations should act to implement the resolution's provisions notwithstanding rights from any international agreement or any contract, or any import permit granted prior to the date of the adoption of the resolution'.⁵ However, the resolution on conflict diamonds by the General Assembly (A/RES/55/56) asks that international (trade) law should be respected.

Sanctions on Liberia

UN Security Council Resolution 1344 stipulates various trade sanctions, including a ban on diamond exports from Liberia, because that country was instrumental in the sale of diamonds from rebel areas in neighbouring Sierra Leone.⁶ This resolution was approved on March 7th, 2001 and put into force May 7th, 2001. The embargo put in place by the resolution prohibits all direct and indirect import of rough diamonds from Liberia, whether they originate in Liberia or not. The diamond and travel ban expires after 12 months but can be renewed by the Security Council if Liberia does not comply with UN demands.

³ S/Res/1295 (2000), 17.

⁴ *The Belgian Monitoring System*, p. 13.

⁵ S/Res/1344, 9.

⁶ "UN Imposes Sanctions on Liberia's Diamond Exports", Reuters (March 7th, 2001). Liberia and especially President Taylor are accused of supporting the Sierra Leone rebels of the Revolutionary United Front (RUF) and others by helping to sell their diamonds worth between \$25 million to \$125 million a year, which is estimated to be enough to sustain the RUF.

1.2 EU Implementation of UN Sanctions

Article 301 of the *Treaty establishing the European Community*, states that EU member states can take a Common Position in order to interrupt economic relations with countries within the scope of the EU common foreign and security policy.⁷

The common foreign and security policy is applicable to UN resolutions related to conflict diamonds. Once the Council of Ministers has unanimously taken a Common Position on how to implement the sanctions of the UN resolutions, it can - by a qualified majority- adopt urgent measures for its implementation. The European Commission (EC) has to make proposals for such urgent measures, which can be changed by the Council before its adoption. In the case of the implementation of UN resolutions on banning conflict diamonds, the Common Position decided to give the urgent measures the form of a Council Regulation, in order to avoid distortion of competition among diamond trading member states which do, or do not, implement the UN embargo.

Once adopted, EU Regulations are binding on member states and cannot be modified. They are directly applicable in all member states and on all EU citizens. Each EU country is responsible for establishing mechanisms to enforce the regulations and to punish non-compliance. The way in which the practical enforcement was done in relation to UN resolutions will be described below for Belgium, the UK and the Netherlands. Customs operations are the responsibility of each of the member states, not of the EU.

The EU Council Regulation (number 1705/98) (*Annex IX*) establishing measures in accordance with the June 1998 UN Resolutions on Angolan diamonds was adopted on July 28th and became operational on August 1st, 1998. It followed the Common Position of Council on July 4th, 1998.

In order to implement the July 5th, 2000 UN resolution on Sierra Leone, the EU agreed on a Common Position on July 20th, 2000 and set out the measures to be taken in its Council Regulation (1745/2000) (*Annex X*) on August 3rd, 2000.

Both Regulations refer to the call by the UN resolutions to apply the necessary measures notwithstanding other obligations in any existing international agreement. According to the EU analysis, this does not affect its partnership agreements with the African, Caribbean and Pacific States (Lomé and Cotonou agreements)⁸ (*Annex VII-VIII*). However, the Regulations only apply to trade relations with non-EU countries. Chapter three will show that since the EU Treaty prevents countries to take measures that impede the free movement of goods within the EU, countries like Belgium, the UK and the Netherlands have not foregone their EU obligations and refrained from taking extra inspection measures on diamonds imported from other member states but originating in Africa. The EU has not adopted a regulation to compel member states to

⁷ This paragraph is based on Interviews with Mr De Vries and Mr Straver, European Commission, Directorate General on External Relations (RELEX), (July 2001); Glossary of the EU and Treaty establishing the European Community (Consolidated Version).

⁸ *Official Journal of the European Communities, Reuters*, (August 1st, 1998) L215/1-11; Idem, (8th August 2000), L 220/21 -23; Niet-fiscale douane voorschriften, Deel I, Band A / Medelingen - 2e herdruk, Suppl. 19, (February 7th, 2001), Medeling nr. 32, p. 3; Idem, (20 October 1999), Mededeling number 20.

strictly monitor and inspect rough diamonds imported from the so-called 'sensitive' African countries, which are suspected of indirectly importing conflict diamonds.

Within the Commission, the Directorate General responsible for external relations (DG RELEX) has a co-ordinating unit on sanctions. It is to a certain extent active in co-ordinating the position of the EU member states in the Kimberley process. The EC has written a proposal for a negotiation mandate in the Kimberley process, which has taken the form of an annotated agenda for the Kimberley process and is being circulated for comments to the member states. By June 2001, the member states had not given the EC a mandate to negotiate on their behalf. The EC believes that it must be involved in the Kimberley process, because it will have to implement the resulting trade-related proposals. The EC has exclusive jurisdiction for its member states on trade rules and policy. As is outlined in the Common Commercial Policy, the Commission has the exclusive right to initiate proposals related to trade policies and trade negotiations.

In the case of handling the issue of conflict diamonds, the EC has translated the UN resolutions quite fast into strict binding (EU) Regulations. However, for the Kimberley process, there seems to be no clear agreement between the Commission and the member states on the nature and power of the role of the Commission. In the past, Belgium has e.g. worked together with the European Commission to elaborate a questionnaire on border control mechanisms for the Kimberley process. Whether fully co-ordinated and represented by the European Commission or not, the EU member states have each the responsibility to take a positive attitude towards the Kimberley process and promote progress jointly and individually. In addition, the commercial interests of the EU should not become an obstacle to take the necessary certification measures in the interest of peace and security in Angola, Sierra Leone and the neighbouring countries.

2 Some figures on diamond trade

As explained in the previous chapter, the implementation of UN Security Council Resolutions (*Annex I-VI*) means that countries should not import diamonds coming directly or indirectly from Sierra Leone or Angola, unless accompanied by certificates of origin which clearly indicate the country of production. The resolutions also completely ban diamond import from Liberia. Figures on diamond trade provide insight as to the level of responsibility that Belgium, the UK and The Netherlands take for implementing the UN resolutions and therefore the importance of control mechanisms in relation to "conflict diamonds" in these countries.

Examining data on the diamond trade can be a means of detecting conflict diamonds. For instance, figures can indicate shifts in trade that could be due to practices to avoid identification of the origin of conflict diamonds. Such a phenomenon is called trade diversion. In addition, providing detailed figures is a step towards ensuring transparency of diamond trade practices and provides an opportunity for external monitoring and scrutiny by the citizens country of concern, and by the international community. However, this is only the case if such figures are made publicly available and are easily accessible. Below, the availability of trade figures and information on the implementation of the UN resolutions is used to describe the level of transparency of implementation and checking mechanisms.

2.1 Figures on trade in rough diamonds

Only trade figures on "rough" diamonds give an indication of whether the diamonds traded were mined in Sierra Leone, Angola, or Liberia. This is because diamonds are not cut or polished in these three countries. Polished, or cut, diamonds are currently not checked through certificates of origin, which accompany rough diamonds. The trade practice of mixing diamonds of different origins before polishing, coupled with the lack of information on the origin of polished diamonds makes it very difficult to trace the country of origin of polished diamonds. There is no international agreement to check polished diamonds for country of origin through a certification system. Therefore, the analysis of figures on polished diamonds is beyond the scope of this report.

The definition of rough diamonds in the statistics varies. Belgium does not include "industrial diamonds unworked or simply sawn, cleaved or bruted" in its diamond trade statistics to report on UN resolutions, although the EU includes this category in its Regulation.⁹

In order to trace trade in conflict diamonds, it is also important to examine figures on rough diamonds imported from countries which UN reports have identified as both importing and exporting diamonds without a certificate of origin from Sierra Leone and Angola. These countries which might "indirectly" export conflict diamonds are referred

⁹For reason of compatibility between the different statistics for the three countries under research, trade data in this report cover only rough diamonds with the following international trade codes: nr 710210000 "Unsorted diamonds - simply sawn, cleaved or bruted", and nr 710231000 "Non-industrial diamonds unworked or simply sawn, cleaved or bruted".

to as “sensitive countries”. Some also produce diamonds themselves. The unofficial list, as used by the Diamond High Council in Antwerp, currently consists of: Ivory Coast, Uganda, Democratic Republic of Congo, Central African Republic, Ghana, Guinea, Namibia, Congo Brazzaville, Mali, Zambia, Rwanda, Burkina Faso, Namibia and South Africa. This list is due to constant fluctuations. Appearance on the list does certainly not implicate that a particular state trades in conflict diamonds, it only indicates the presence of a higher risk, also due to neighbouring countries with a reputation of exporting conflict diamonds. Information on import from these countries is included in the data below.

It should be noted that in addition, UK Overseas Trade Statistics reveal relatively small amounts of rough "industrial" diamonds being imported indirectly from sensitive countries:

in 1998, 5000 carats from Sierra Leone via Belgium and 15,000 carats from the Democratic Republic of Congo via Germany;

in 1999, 840 carats from Namibia via Botswana; and

between January and September 2000, 5000 carats from Namibia via Belgium.

Statistics of the Netherlands indicate that 74 carats of rough industrial diamonds have been imported from Congo in 1999.¹⁰

Diamond trade flows to Belgium

Antwerp in Belgium is well known for its importance in the diamond trade. Belgian trade data (see table 1) shows large import and exports of rough diamonds which makes Belgium one of the top diamond-trading countries in the world. Approximately 800,000 carats (between five and ten million actual rough stones) are officially checked daily at Antwerp, Belgium's only import and export place for diamonds.¹¹ It is estimated that between 70% and 80% of all rough diamonds on the world market pass through Antwerp.¹²

Table 1: Overview of Belgian trade in rough diamonds since 1991

	Imports in 1000 carats*	Imports in millions \$	Exports in 1000 carats	Exports in millions \$	Difference in carats
1991	70,479	3,535.7	75,709	3,120	-5,230
1992	65,129	3,393.3	69,875	3,089.3	-4,746
1993	85,212	4,085.7	85,028	3,655.5	184
1994	64,304	4,226.6	80,355	3,837.1	-16,051
1995	95,898	4,352.1	100,905	3,991.5	-5,007
1996	129,889	5,106.3	116,810	4,500.2	13,079
1997	143,378	5,581.3	145,131	5,169	-1,753
1998	133,714	4,592.5	165,660	4,344.5	-31,946
1999	149,687	6,194.5	173,262	6,032.8	-23,575
Total	937,690	41,067.96	1,012,735	37,739.9	-75,045

Source: *The Belgian Experience*, p. 14, 18, and author's own calculations.

* Carats is the weight of diamonds is valued; 1 carat is 0.200 g.; 5000 carats weigh 1 kilogram.

¹⁰ Centraal Bureau voor de Statistiek, [June 2001]: statistics on rough industrial diamonds, code 710221000, period 1999 – September 2000.

¹¹ *Diamonds and Belgium: Facts and Figures, Regulations and Procedures, Illicit Diamonds, Conflict Diamonds, War Diamonds*, p. III/4.

¹² *Progress Report on Conflict Diamonds*, p. 6; Interview with Frieda Coosemans, Belgian Ministry of Economic Affairs, License Office, Deputy Adviser.

What is striking about the available Belgian figures on imports and exports of rough diamonds between 1991 and 1999 is that, in total, there were 75 million more carats being exported than imported. At the same time, however, the value of the total exports was less than the total imports.¹³ The difference in carats for the whole of the nine-year period almost equals the size in carats of an entire year's imports in the early 1990s.

Officials attribute this difference to stock piling and differences in rating diamonds in exporting countries.¹⁴ However, the annual statistics of diamond reserves held by companies in Belgium are not published. According to the Ministry of Economic Affairs, rough diamond stock in 1996 was 57 million carats and 46 million in 1997.¹⁵ Given the large difference between imports and exports in carats over a nine-year period, there remain questions as to whether this is a sufficient explanation or whether the smuggling of rough diamonds is involved. There is general recognition that diamonds are being smuggled but estimates vary widely. Within the scope of this research no sufficient explanation could be found to account for this differences in carats and value. This suggests that the use of figures for monitoring purposes is still problematic and a more standardised valuation of diamonds is needed worldwide.

Table 2: The largest and/or "sensitive" exporters of rough diamonds to Belgium, in 1000 carats

Country of Provenance	1998	1999	January to August 2000	January to March 2001
Angola	1,595	2539	1,417	641
Australia	44,111	50,769	23,405	3,867
Central African Republic	776	1222	836	274
Democratic Republic of Congo	20,887	23404	13,574	1,110
Ghana	1,061	615	410	n.a.
Guinea Republic	536	554	507	318
Israel	3,527	6798	7,962	4,831
Ivory Coast	332	509	n.a.	n.a.
Liberia	2,558	1753	356	n.a.
Mauritius	5	243	n.a.	n.a.
Namibia	136	359	n.a.	n.a.
Netherlands Antilles	274	221	n.a.	n.a.
Sierra Leone	770	183	20 (Jan. to April)	n.a.
South Africa	574	412	459	154
United Kingdom	39,521	40345	26,453	9,974
Remaining countries	17,051	19,761	13,681	6,715
Total from all countries (others included)	133,714	149,687	89,080	27,884

Sources:

Diamonds: The Belgian Experience, p. 15, and 18.

Quarterly Trade Statistics, Diamond High Council, June 2001: statistics for January to March 2001 only available on the web <<http://www.diamonds.be/main11.htm>>.

¹³ *Progress Report on Conflict Diamonds*, p. 6: the figures show the same trends.

¹⁴ Interview with officials from the Ministry of Economic Affairs, License Office, (June 11th, 2001).

¹⁵ Oral response to letter from Peter Saverys, Ministry of Foreign Affairs, Diamond Unit, Advisor, (May 2001).

The data on imports of rough diamonds (see table 2) per country of provenance (the last country where the goods were sent from) do not provide a full picture of the origin of the diamonds imported into Belgium. According to the Ministry of Economic Affairs, lack of data and an international monitoring system make it impossible to compile data on the country of origin of all imported diamonds.¹⁶

The figures from 1998 to 1999 show a trend, in carats, toward an increase in rough diamond imports from Angola. The available figures from 2000 and 2001 seem to indicate that this increase in imports from Angola to Antwerp has continued. In 1999, a significant part (2.5 million carats) of the Angolan diamond production (3.7 million carats) was exported to Belgium via Antwerp, accompanied by a certificate of origin.¹⁷

The figures from 1998 to 1999 show sharply decreasing imports from Sierra Leone and decreasing imports from Liberia, trends that seem to have continued in 2000 and 2001.

There is a possibility that some conflict diamonds are being exported indirectly through neighbouring African countries, the so-called sensitive countries, mentioned above. Therefore, Belgian figures on trade in diamonds with these sensitive countries are to be closely watched.

Except for Ghana, imports of rough diamonds in 1999 from sensitive countries such as Central African Republic, Democratic Republic of Congo, Ivory Coast, Namibia, and Guinea have increased compared to 1998. Except for Ivory Coast, this trend seems to have continued in 2000, especially for imports from Guinea. There are no easily available figures to find out whether this increase is due to growth in production in the countries themselves, expansion in authorised trade, or increase in smuggling or conflict diamond trade. This phenomenon needs close monitoring.

The most striking increase (4,760%) is the difference of imports from Mauritius between 1998 and 1999.¹⁸ The Belgian Ministry of Economic Affairs could not provide a fully proven explanation for this phenomenon. They believe that diamonds are being exported from other African countries to Mauritius to be cut, but that some are not being cut there and end up in Antwerp. The import increase might be due to the activities of a particular trader who in turn was motivated by fiscal or personal reasons.¹⁹ Interestingly, the UK imported considerable less from Mauritius in 1999 than in 1998 (see table 3).

Rwanda and Burkina Faso are new diamond exporters who do not produce diamonds. However, they rarely export diamonds to Antwerp. No significant changes have been observed in imports from Rwanda or Burundi since UN resolutions have been in force on Angola and Sierra Leone diamonds.²⁰

The Diamond High Council, an organisation which co-ordinates and represents the diamond business in Antwerp indicates that for 2000 rough diamonds imports to Antwerp are declining in weight. It states that there has been a significant increase in

¹⁶ *The Belgian Monitoring System: Licences, Statistics, Certificates*, p. 11.

¹⁷ *Progress Report on Conflict diamonds*, p. 8.

¹⁸ No figures for 2000 and 2001, most likely because there were no significant imports.

¹⁹ Interview with Youri Steverlijnck, Diamond High Council, spokesperson, (April 2001)

²⁰ *Progress Report on Conflict Diamonds*, Antwerp, p. 9, 19.

goods coming to Belgium from Tel Aviv (+3.9 million carats), Switzerland (+988,000 carats), Dubai (+1.2 million carats), United States (312,000 carats) and South Africa (+210,000 carats).²¹

The Belgian diamond industry is worried that strict Belgian controls on the diamond trade and the implementation of sanctions will divert rough diamonds to competing trading centres. The Belgian Ministry of Economic Affairs contests this opinion because trade activity in 2001 demonstrates that most rough diamonds still come through Antwerp, a trading centre that continues to provide the most important commercial opportunities. The 2001 figures for the entire year will need to be analysed to see whether imports from other centres with lax border controls continue and to determine the reasons for the increases.

Diamond trade flows to the UK

The UK is a very significant importer of rough diamonds (see table 3), exceeding even Belgium in terms of carats in 1999. This can be explained by the fact that De Beers stockpiles its diamond reserves in London. This also accounts for the higher amounts of imports than exports during the same period (see tables 3 and 4). De Beers is one of the few diamond traders in the UK and is known worldwide for its long-standing strategy to dominate the world market in rough diamonds by buying up as much diamonds as possible.

The UK trade statistics on rough diamond imports available from the Stationary Office do make a distinction between the country of provenance and the country of origin, which should allow a critical insight to whether diamonds are indirectly imported from countries covered by UN resolutions or from "sensitive countries". However, not much use can be made to trace anomalies in relation to conflict diamonds because most of the countries of origin mentioned are the same as the countries of provenance, even if they do not produce diamonds, or are indicated by "undeclared origin". Even most imports from Belgium -which tries to keep as much as possible records on the country of origin- have the mentioning "undeclared origin". Nevertheless, the trade figures allow to show one indirect import from Angola after the UN resolution regime was already in place: in 1999, rough diamonds imported from South Africa included 100 carats of diamonds originating in Angola.

Trade figures show that the UK also imported diamonds directly from Angola in 1999, which means that according to UN resolutions, these imports should have been accompanied by certificates of origin. The UK imported a relatively small amount of rough diamonds from Sierra Leone in 1998 and from Liberia in 1999: this was before the two countries were covered by UN resolutions, and before De Beers announced in the beginning of 2000, to no longer buy conflict diamonds.

Since 2000, the UK's imports from sensitive countries such as the Democratic Republic of Congo, Ghana, and Guinea have diminished. However, the imports from Namibia and South Africa have increased. The fact that around half of the UK's supplies come from Switzerland complicates the tracing of indirect trade from conflict areas. In Switzerland, for tax reasons, the countries of origin are being obscured.

²¹ *Progress Report on Conflict Diamonds*, p. 7.

Table 3: UK imports of rough diamonds, 1998 to March 2001, in carats

Country of Provenance	1998	1999	January to September 2000	January to March 20001
Angola	-	30,041	-	-
Australia	5,219,855	4,120,060	4,779,801	1,791,414
Belgium – Luxembourg	2,969,683	4,289,273	1,576,467	502,856
Botswana	76,435	3,081,118	1,759,108	515,6231
Central Rep Congo	-	9,720	-	-
DR Congo	-	1,000	-	-
France	52,062	133	378	-
Germany	283	4,3201	-	-
Ghana	74	4,023	-	-
Greece	173	293	-	-
Guinea	58	78,584	-	-
India	898,415	3,853,360	1,400,249	16,073
Irish Republic	595,041	134	-	811
Israel	596,702	323,659	1506	673,692
Italy	-	-	81	-
Liberia	-	11	-	-
Mauritius	302	19	-	-
Namibia	2,5278	25,4967	-	358,496
Netherlands	446	561	807	-
Portugal	111	100	251	-
Russia	3,1470,492	11,972,787	8,036,804	4,707,625
Sierra Leone	22	-	-	-
South Africa	509,0074	8,189,697	8,262,105	2,940,006
Spain	-	66	-	-
Switzerland	68,752,717	117,764,314	36,742,960	711,188
USA	8,196	2,195	2,498	4,251
Other countries	329,190	2,446,897	6,575,280	2,409,716
All countries	116,085,609	156,466,213	64,358,494	17,480,945

Source: Overseas Trade Statistics, UK

The export figures of the UK to Belgium do not match with the Belgian figures on imports from the UK for the same period (see tables 2 and 4), nor vice versa with differences of more or less than 1,000,000 carats.²² It was beyond the scope of the research project to find out the reason of this difference, e.g. smuggling or incompatibility of statistics. Within the EU, however, there seems to be no institution closely analysing the figures of the trade in rough diamonds amongst EU member states, and acting upon anomalies that could relate to the issue of conflict diamonds.

²² Belgian exports of rough diamonds to the UK in 1999, were 4 192 000 carats (source: *Diamonds and Belgium: Facts and Figures*, p. I/4) while the UK figures in table 3 show imports of 4,289,273 carats, a difference of 97,273 carats.

Table 4: UK Exports of rough diamonds, in carats

Destination	1998	1999	January-August 2000	January-March 2001
Belgium & Luxembourg	41,080,027	39,201,010	25,727,137	9,736,227
All countries	66,220,889	66,160,136	75,604,953	10,113,851

Source: Overseas Trade Statistics, UK

Imports to the Netherlands

Trade statistics for the Netherlands show that the country is importing and exporting relatively small amounts of rough diamonds. The fact that most rough diamonds are imported to the Netherlands from EU countries (mostly Belgium) means that the majority of these diamonds are not directly imported from the countries in which they are mined. This makes it more difficult to ensure that Dutch diamond imports are not conflict diamonds.

Table 5: Import of rough diamonds to the Netherlands, in carats

Country	1998	1999	January to September 2000
Austria	15	-	1
Belgium and Luxembourg	16,764	21,059	15,258
Denmark	1	23	6
France	135	144	54
Germany	1,466	618	105
Hong Kong	-	-	16
India	12	-	693
Indonesia	-	-	12
Israel	73	-	-
Italy	1,829	150	3
Liberia	-	117	-
Portugal	89	-	-
Spain	73	46	-
Thailand	1,153	-	-
United Kingdom	30	24	-
United States	3	-	-
Zambia	-	62	-
TOTAL	21,643	22,243	16,148

Source: Centraal Bureau voor de Statistiek, the Netherlands

The trade figures confirm that the Netherlands does not import rough diamonds from countries that are under UN embargo.²³ However, there have been some imports from sensitive countries. In 1999, rough diamonds were imported from Liberia, a sensitive country that was subject to a diamond trade ban in 2001. None of the persons interviewed for this research seemed to be aware of these imports or the problem of sensitive countries.

²³ Interviews with Marcel van der Lens and Karen van Dantzig, Ministry of Economic Affairs, Economische Controledienst, (June 2000).

The statistics from the Netherlands indicate again that rough diamond trade figures among EU countries are not reliable, or that a lot of smuggling takes place. The export figures of Belgium to the Netherlands do not match the Dutch import figures of rough diamonds. The Belgian Ministry of Economic Affairs declares that in 1998 and 1999 respectively 10,636.42 and 15,801.83 carats were exported to the Netherlands, while the latter's trade statistics (see table 4) report imports of respectively 16,764 and 21,059 carats rough diamonds from Belgium (and Luxembourg whose trade is insignificant).²⁴ The UK statistics report 1 carat and 0 carats rough diamond exports for 1998 and 1999 respectively, while the Dutch statistics report imports of 30 carats of rough diamonds in 1998 and 24 in 1999.

The available statistics do not yet reflect that more diamonds for Antwerp are being imported through the Netherlands' main airport Schiphol.²⁵ Since July 1st, 2001, Belgium's airport Zaventem was boycotted after a brutal robbery of diamonds and other valuable goods.

2.2 Transparency?

Information on the measures taken by governmental bodies to implement the UN resolutions and figures on the diamond trade need to be made public. This is essential to monitor the way in which the issue of conflict diamonds is actually being tackled and the manner in which international sanctions are being pursued by different states. Furthermore, transparency and easily-accessible information increase awareness within the different governmental agencies responsible for the implementation of the sanctions resolutions.

During the research for this report, information on how the UN resolutions were being translated into national practices was not as easily available from the Netherlands and the UK as it was from Belgium.

Belgium's push for transparency

Belgium has been preoccupied with providing information about its regulations to implement UN resolutions, as well as data about the actual mechanisms to enforce these resolutions. One of the reasons is the negative image that Belgium received in the first UN report on the implementation of the sanctions.²⁶ The UN later had to correct this report because Belgium actually implements one of the strictest systems to inspect the diamond trade. This bad image was endangering the Belgian diamond trade which constitutes of approximately 1% of Belgium's GDP.

In Belgium, national trade statistics and information on mechanisms to monitor the diamond trade are provided by the highest political and administrative levels of governments.

²⁴ Letter from Frieda Coosemans, Ministry of Economic Affairs, Licence Office, Deputy Advisor, (August 27th, 2001).

²⁵ Interview with spokesperson of Schiphol Airport, (August 15th, 2001).

²⁶ *Final Report of the UN Panel of Experts on Violations of Security Council Sanctions against UNITA* (S/2000/203, March 10th, 2000).

The Belgian Ministry of Foreign Affairs and the Ministry of Economic Affairs have issued detailed reports explaining the regulations that govern the diamond trade and providing trade figures. These reports were mostly issued in relation to meetings about the Kimberley process, which brought together different public and private parties involved in the diamond trade. The most detailed information about customs and trade regulations for diamonds is provided by the responses to the questionnaire circulated as part of the Kimberley process.²⁷ However, those involved in the Kimberley process decided not to make information available per country, but to only publish the results of the questionnaire in aggregate figures. Several countries were afraid that such detailed information would show their lack of initiative and capacity to implement the UN resolutions.

Belgium was very much involved in developing the Kimberley questionnaire and was disappointed that the answers were not published per country, and that even those countries, such as Belgium, that want to publish their information can not do so. This lack of transparency does not allow enough national and international scrutiny of national-level practices, which would lead to the “naming and shaming” of particular countries and in turn advance the process of better monitoring the diamond trade. Belgium's trade statistics and other information on its involvement in the diamond trade are now subject to detailed external scrutiny and criticism, meanwhile other countries experience less criticism because they do not disclose information.

Transparency on trade data

The Belgian Ministry of Economic Affairs has a detailed national database at its disposal with information on every shipment of diamonds (imports and exports). This allows the Ministry to update detailed statistics and reports on a monthly basis.²⁸ However, only the more aggregate figures, excluding rough industrial diamonds, reproduced in the reports for the Kimberley process are easily available to those interested.

Data regarding the classification, the weight, and the value of the imported or exported diamonds, as well as information on their provenance, origin and destination is compiled from two sources. First, the information that diamond traders must provide in order to be licensed (licenses, which give permission to import or export diamonds from or to non-EU countries, are granted by the Ministry of Economic Affairs) and secondly from statistical reports which diamond dealers must provide when trading with countries in the EU. This allows for some supervision of the diamond trade. This information is checked against the annual declarations which diamond traders and manufacturers are obliged to submit to the Ministry of Economic Affairs relating to their diamond reserves (including diamonds entrusted to third parties) and their activities (for example, cutting).²⁹ However, information on diamond reserves is not published, which makes it difficult to interpret the gross import and export figures.

²⁷ *Working Matrix, Summary, Questionnaire on Import and Export Controls and Procedures relating to the International Trade in Rough Diamonds*, p 14: the questionnaire was mandated by the Task Force Kimberley Process II at the Windhoek Meeting on 16th February 2001 and prepared by the Belgian Ministries of Foreign Affairs and Economic Affairs, the Diamond High Council and the European Commission.

²⁸ *Diamonds: The Belgian Experience*, p. 6.

²⁹ *Diamonds: The Belgian Experience* p. 7; *Facts and Figures*, p. II/1.

Even though Belgian traders have to mention the country of origin (where the diamonds were mined), no statistics per country of origin are published in the reports generated by the Kimberley process. The Belgian Ministry of Economic Affairs finds that in the event that rough diamonds are imported indirectly, it is difficult to check information on the country of origin. The Ministry claims that expanding their database of information on the origin of diamonds will only be possible if more detailed information is provided via an international monitoring system.³⁰ The lack of data and the failure to disclose the available data on countries of origin is an obstacle for monitoring the indirect trade in conflict diamonds.

Belgium's use of its detailed trade statistics as a tool for checking irregularities in its trade in diamonds is discussed in chapter 3.

Reluctance to disclose UK's trade figures

Information on the measures taken by the UK to implement UN resolutions and inspect diamond trade at the border is not easily available. The Information Officer of Her Majesty's (HM) Customs and Excise was not aware of any legislation related to or any other steps taken to implement UN sanctions on diamonds. Information on the implementation of sanctions, and regulations governing the diamond trade in general, was not widespread among UK customs officials. Given the UK's large imports of rough diamonds worldwide, this is a serious obstacle in regard to monitoring the implementation of the UN resolutions.

It was only through direct contacts with the United Nations Department of the Foreign and Commonwealth Office that it was possible to get concrete information on implementation, regulations, and customs practices in relation to the diamond trade. The Foreign and Commonwealth's website³¹ provides information on how the diamond ban will be implemented. The actual legislation can be found at the website of Her Majesty's Stationery Office.³²

As the responses to the Kimberley questionnaire are confidential, the UK could not provide the responses it gave.

When requesting diamond trade data for this research project, Her Majesty's (HM) Customs and Excise Department was very reluctant to provide any figures because they considered such information too sensitive to be disclosed. An important reason for this reluctance was commercial interests. There are so few diamond traders in the UK that the disclosure of any information on the UK trade in diamonds would clearly provide information on De Beers, one of the largest world traders in rough diamonds.

However, Overseas Trade Statistics could be obtained from the Stationery Office, but only at commercial prices. These statistics of diamond import and export figures show the total weight, amount of carats and the value against each diamond tariff heading. Unfortunately, the identification of some countries of origin, as separate from the country of provenance, is very incomplete.

³⁰ *The Belgian Monitoring System*, p. 11.

³¹ <http://www.fco.gov.uk/news/newstext.asp?3918>.

³² <http://www.hms.o.gov.uk>: see Statutory Instrument 1998 Nos. 1752, 1753, 1756, 1757 (Angola), Statutory Instrument 2000 No. 1822 (Sierra Leone), Statutory Instrument 2001 No 1867 (Liberia).

Unawareness of sanctions in the Netherlands

Only a few people within the Dutch government appear to be involved in, or aware of, the implementation of UN sanctions on diamond trade. Information on this matter was not easily accessible. Researchers found that many government officials who should be involved in the practice of implementing the sanctions were ill informed. Awareness of the sanctions was especially low among customs officers, despite the existence of officially published instructions. Some, for instance, did not even know which countries are covered by the sanctions. This is troubling, as it is their responsibility to carry out customs checks. One explanation for this lack of awareness is the fact that the Netherlands has not been involved in any direct diamond trade with the countries under embargo. Finally, there was no awareness of the problem of diamonds imported from sensitive countries such as Liberia, a country which the Netherlands imported diamonds from in 1999 (see Table 5).

The Netherlands has also answered the Kimberley questionnaire but again, the information contained in these responses has not been made public. One governmental official claimed that the Dutch answers to the questionnaire regarding customs regulations quite openly referred to the lack of expertise and training in regard to regulating the Dutch diamond trade.³³

Annual statistics on the Dutch trade in diamonds are available from the Central Bureau for Statistics, with information tabulated in carats, value per classification and country of provenance. Dutch statistics on imports from Belgium do not match Belgian figures informally made available on exports to the Netherlands. Neither does the UK statistics on export to the Netherlands match the Dutch statistics on imports from the UK.

2.3 Conclusions

Belgium and the UK have large imports of rough diamonds, giving them a large responsibility to act upon the UN resolutions on conflict diamonds. The Netherlands import considerable less rough diamond and none directly from countries under embargo.

Belgium imports the largest part of Angolan diamond production. The UK did import Angolan diamonds directly and indirectly after the UN resolution was in force. This makes both countries responsible for ensuring that these diamond imports are accompanied by certificates of origin. Trade figures analysed in this report indicated that Belgium has been importing rough diamonds directly from Sierra Leone since UN resolutions were instituted requiring such imports to be accompanied by certificates of origin.

In Belgium, most imports from sensitive countries have increased since the UN resolution on Angola (1998). In the UK, they have decreased, except for imports from Namibia and South Africa. The Netherlands only imported a small amount of diamonds from Liberia, before a UN resolution banned those imports.

This report could only analyse imports of rough and roughly worked 'industrial' diamonds from the UK and the Netherlands. The UK indirectly imported relative small

³³ Interview with Willy van der Kraan, Netherlands Ministry of Foreign Affairs, Policy Officer for Southern African Region, (June 2001).

amounts of such diamonds from sensitive countries such as Sierra Leone (before the UN embargo), Namibia, Democratic Republic of Congo, and Ghana. The Netherlands imported a small amount of industrial diamonds from the Democratic Republic of Congo (1999). In its reports, Belgium did not include trade statistics on rough or roughly worked industrial diamonds, nor on conflict diamonds, nor could it fully explain some surprising trends in the available statistics. Only UK statistics included figures on the country of origin of all imported rough diamonds, alongside the country of provenance, but these were incomplete. The trade figures of Belgium, the UK and the Netherlands did not match each other regarding trade in rough diamonds among themselves.

This indicates an urgent need to internationally standardise trade statistics on rough diamonds that should include all available information about the country of origin. Moreover, there need be the capacity to detect and enact upon figures that do not match or indicate anomalies which might be related to trade, or smuggling, in conflict diamonds.

Transparency regarding the implementation of the UN sanctions was hampered by participants of the Kimberly Process who wanted to keep the responses to the detailed questionnaire confidential. Only Belgium published regular reports with detailed information about the regulations and border checks in place to avoid conflict diamonds. Such information was much less accessible and widespread among government officials in the UK and the Netherlands. Lack of information about the UN resolutions among customs officials of the Netherlands is especially worrying.

3 The sanctions implemented: 3 examples

After having examined the figures, in this chapter the concrete customs measures these countries have taken to observe UN Security Council resolutions are being analysed.

The first step for countries seeking to implement the UN Security Council resolutions relating to conflict diamonds is to translate them into European and national law. Once legally-binding at the European or national level, the authorities responsible for their implementation need to develop procedures for customs agencies and other relevant regulatory bodies that would be involved in inspecting the entry of diamonds into the country. Therefore, this report describes per country how these UN resolutions were translated into legislation and instructions for customs or other border control bodies. In this way the authorities responsible for implementing international measures on conflict diamonds will be identified. This in turn should indicate who, in each country, is responsible for implementing the international certification system that is being discussed and developed in the context of the Kimberly process.

The development of such a certification system is an attempt to find a way to ensure that all (rough) diamonds are accompanied by documents that certify the country in which they were mined (a certificate of origin). One of the aims of this report is to identify and raise awareness about the potential problems associated with implementation of the international certification system now in development.

The fourth chapter will describe and evaluate how the specific regulations established in the three countries have been carried out in practice.

3.1 Belgium's policy and regulations on conflict diamonds

The Belgian Ministry of Foreign Affairs and the Ministry of Economic Affairs (up to the cabinet level) are intensely involved in the international discussions currently taking place on conflict diamonds, including the Kimberley Process. Together they are responsible for Belgium's policy on conflict diamonds.

Diamond Task Force

Belgium has a Diamond Task Force, jointly headed by the Ministries of Economic Affairs and Foreign Affairs, which includes representatives from other governmental ministries.³⁴ The regular meetings of this task force allow ministries to quickly exchange information about regulations, policies and practices to implement the sanctions and to follow-up on the Kimberley Process. The objective of the task force is to exchange information, to identify bottlenecks in the process of implementation and to take steps to create a higher level of transparency in the diamond sector.

³⁴ *Diamonds and Belgium: Facts and figures*, p. III/2. -3.; interview with officials from the Belgian Ministry of Economic Affairs: Frank Demeyere, Deputy Chief of Cabinet, and Frieda Coosemans, Deputy Adviser at the Licence Office (Divisie Vergunningen) under Afdeling Markttoegangsbeleid/Department Market Access, at Bestuur Economische betrekkingen/DG Economic Relations, (June 11th, 2001).

This task force was created on February 18th, 2000 upon the initiative of the Cabinet of the Ministry of Economic Affairs to consult with representatives from the Cabinets of the Ministers of Justice, Foreign Affairs, Foreign Trade, and Development. The administrations of the Ministry of Finance (Customs), the Ministries of Economic Affairs and Foreign Affairs, the National Security Services (*Staatsinlichtingendienst*), the Office of the Public Prosecutor of Antwerp, and the National Magistrate are also part of the Diamond Task Force.

It appears that the use of such an inter-agency task force has been useful in enhancing the regulatory and enforcement capacity of the different offices and agencies involved in the implementation of the UN resolutions.

The use of certificates and licenses to implement UN measures

In Belgium, customs procedures for diamond imports from countries which are covered by UN sanctions fall under the jurisdiction of the Ministry of Finance (which writes up the procedures that the customs department must carry out) and the Ministry of Economic Affairs (Licensing Office).³⁵ Announcements are posted in the buildings of the diamond business in Antwerp to describe the conditions, for example, requirement of a certificate of origin, for import or export from and to the countries under embargo.

The Belgian Ministry of Economic Affairs³⁶ is responsible for ensuring that such a certificate of origin accompanies diamond shipments from Angola as required by the UN.

Since the adoption of UN Resolution 1306 (July 2000) (*Annex III*), the import of rough diamonds from Sierra Leone is only authorised with a certificate of origin from the official Sierra Leone authorities. In this case, both the Belgian Ministry of Economic Affairs and the Ministry of Finance (customs) are responsible for ensuring that such a certificate of origin accompanies diamond shipments from Sierra Leone.

It is important to note that as soon as the UN resolutions on diamond imports from Angola, Sierra Leone and Liberia were adopted by the UN Security Council, they went into effect in Belgium. Because Belgium already had a unique system of import and export licenses for diamonds in operation, it was neither necessary to wait for an EU Regulation, or to issue a special ministerial decree, nor introduce a new law to implement the UN import and export embargoes. Under this existing system, a license is required from the Ministry of Economic Affairs for the import and export for every shipment of diamonds to and from non-EU countries. Consequently, no license was issued for diamonds from Liberia. Licenses for diamonds imported from Sierra Leone and Angola were only issued if the required conditions were fulfilled, i.e. if imported parcels of diamonds were accompanied by certificates of origin.

This licensing system does not cover diamonds that are imported indirectly through EU countries from the three countries under embargo. Since the EU free trade laws do not allow trade-restrictive measures — which a license system is considered to be — but

³⁵ *Diamonds and Belgium: Facts and figures*, p. II/1., III/1. -2.; *Diamonds: The Belgian Experience*, p. 5 - 6, 13; *The Belgian Monitoring System*, p. 5 -7, 9.

³⁶ *Bestuur Economische Betrekkingen, 2eAfdeling Markttoegangsbeleid, Division Vergunningen /DG Economic Relations, Department of Market Access, License Division.*

only allows for a system to collect statistics on diamond trade with countries in the EU. This means that the UN resolution requirement to not indirectly import diamonds from Angola, Sierra Leone, and Liberia is more difficult to implement within the EU.

The Ministry of Economic Affairs decides in which cases an import license must be issued and can withdraw all licenses whenever changes in regulations occur. In the case of diamonds coming from Angola or Sierra Leone or from a sensitive country, the Belgian import license procedure is stricter. Individual licenses for one single shipment on behalf of an individual diamond dealer are issued by the Ministry of Economic Affairs. Individual licenses for imports of rough diamonds from Angola and Sierra Leone are only issued if accompanied by a certificate of origin and are applicable for only one single certificate of origin.

In contrast to individual licenses, a "global license" can be obtained from the Diamond Office, which issues and administers the global licenses.³⁷ Such a global license is valid for one single provenance or destination and is used for the registration of shipments from several diamond dealers covering a particular amount or weight. The declaration by the individual diamond dealers to obtain a license is attached to the global license.

Implementation in practice

In Belgium, the UN resolutions were implemented immediately using the existing license system.³⁸ For example, a shipment of diamonds that was sent from Sierra Leone on July 4th, 2000 - the day before the UN decided that all diamonds imports from Sierra Leone needed to be accompanied by a certificate of origin- and arrived in Antwerp on July 6th. This was one day after the UN Security Council resolution came into force, which was held in Antwerp and only released after consultation with the Security Council.

This can be contrasted with the situation in the United States, where then-president Clinton only signed a presidential decree to implement the UN embargo on January 21st, 2001. As a consequence, for more than six months after the UN sanctions were issued diamonds from Sierra Leone could be legally imported, via various entry points, into the US without a certificate of origin and without being physically inspected. This also meant that imports of rough diamonds from the US to Belgium that originated in Sierra Leone were not checked in the US, as they should have been under the UN resolution.

In February 2000, the government of Angola introduced a new certificate of origin for its export diamonds with additional safety measures that are intended to make forgeries extremely difficult. Meanwhile, the Belgian government (also since February 2000) increased controls and physical inspections of diamond imports by expanding the list of sensitive countries for which an individual license is required. One noteworthy problem

³⁷ Diamond Office is part of the Diamond High Council (HRD), an organization which was created by the diamond business in Antwerp to coordinate, support and represent the diamond business community. It operates as a company delivering services to industry as well as to the Ministry of Economic Affairs, as is described in chapter 3.

³⁸ Interview with Youri Steverlijnck, Diamond High Council, spokesperson, (April 25th, 2001), and officials from the Ministry of Economic Affairs, (June 11th, 2001); *Progress Report on Conflict diamonds*, p 8; *Analysis of Current Practice and Experience of National Certification Schemes for Rough Diamonds from Angola and Sierra Leone*, p. 6.

faced by the Ministry of Economic Affairs when issuing licenses is that the conflict areas change, sometimes from day to day, so that diamond mines change from being legal to being illegal or vice versa.

The Belgian Ministry of Economic Affairs has little means to check whether or not conflict diamonds receive appropriate certificates of origin from the authorities in Angola and Sierra Leone. The co-operation and certification system is being based on trust. However, there are doubts whether the diamonds are truly meeting the standards of certification. There is no complete confidence in the system, which is reflected in a recent report by the NGO Global Witness and in reports presented to the UN Security Council regarding implementation of the sanctions.³⁹ Belgium considers it the responsibility of the UN to monitor whether or not the authorities in the countries from which the diamonds originate, have truly implemented the certification system. Since sanctions on Liberia were declared on May 7, 2001, there have been no imports of Liberian diamonds to Belgium.

Punishments

The Belgian General Law Concerning Customs and Excise Duty calls for penalties (for example, imprisonment and fines) for breach of a UN embargo and illicit import and export.⁴⁰

3.2 Procedures to implement UN resolutions in the United Kingdom

In the UK, the Foreign and Commonwealth Office (FCO) is responsible for the implementation of UN sanctions as well as for customs operations by Her Majesty's Customs and Excise.

The diamond ban is being legally implemented in the UK by means of the 1946 United Nations Regulation Act. In this way, new sanctions are translated into “secondary” legislation. This means that the measures outlined in the sanctions and in the proposed legislation can be enforced before they have been approved by Parliament.⁴¹ Such secondary legislation procedures allow for a speedy translation of the sanctions into UK legislation, and have been activated in the case of sanctions relating to conflict diamonds.⁴² For example, after the UN Resolution on Angola was adopted on June 12th, 1998, the UK legislation entitled *Angola (United Nations Sanctions) (Dependent Territories) Order 1998* was issued on July 21st 1998, laid before Parliament the next day and came into force on July 23rd. The UN Resolution on Sierra Leone was adopted on July 5th, 2000. It was soon followed by UK legislation: the *Sierra Leone (United Nations Sanctions) (Dependent Territories) Order 2000*, which was issued on July 12th, laid before Parliament on July 13th, and put into force on July 14th. The UK did not wait

³⁹ *Review of the Sierra Leone Diamond Certification System and Proposals and Recommendations for the Kimberley Process for a Fully Integrated Certification System.*

⁴⁰ Ministry of Economic Affairs Belgium, "Diamonds and Belgium, p. II/2.

⁴¹ Interviews with Clive Wright from the Foreign and Commonwealth Office, UN department, (July 2001); the Foreign and Commonwealth website states the following on S/Res/1306 (Sierra Leone): ‘The diamond ban will be implemented in the UK by means of an amendment to the Open General Import Licence and in the Crown Dependencies and Overseas Territories by means of Orders in Council under the United Nations Act 1946’.

⁴² Statutory Instrument 1998 No. 1753; Statutory Instrument 2000 No. 1822; Statutory Instrument (2001) No. 1867.

for EU Regulations, which were adopted some days later, in order to translate the UN resolutions into national laws.

The latest translation of the UN sanctions on Liberia (adopted May 7th, 2001) into UK legislation showed that legislation does not necessarily have to go through parliament before it comes into force. The *Liberia Order 2001* was made on May 14th, 2001 and was enforced the following day, but it was not laid before parliament until June 20th, 2001.

Based on these laws, regulations for customs officers are being developed by the Foreign and Commonwealth Office. A regulation serves to officially notify Her Majesty's Customs and Excise (HMCE) of the precise nature of the sanctions, and the conditions on trade contained in any UN resolution. This is conveyed to the staff of HMCE at the border checkpoints, along with the relevant description of goods (including tariff headings). There is a Restrictions and Sanctions team at HMCE that deals with the implementation of these customs regulations.⁴³ If diamonds imported from Angola and Sierra Leone into the UK are not accompanied by a certificate of origin, the diamonds will be confiscated.

SOMO researchers learned of no customs policies or procedures developed to ensure better controls on diamond imports from "sensitive" countries.

3.3 How the Netherlands translates UN resolutions into practice

The Ministry of Foreign Affairs in the Netherlands plays a political role regarding conflict diamonds. It is currently involved in discussing and developing strategies to prevent conflict diamonds from playing an important role in fuelling conflict.⁴⁴ Because the Netherlands has been in the UN Security Council during 1999-2000, it has also been directly involved with the call for sanctions on conflict diamonds and the challenge of implementing these measures in all countries in the absence of international policy on how this should be done.

The United Nations Department (*Directie*) of the Dutch Ministry of Foreign Affairs, which is part of the - Directorate General on Political Affairs (*Directoraat Generaal Politieke Zaken- DGPZ*) is the co-ordinating office for relations with both the UN and EU regarding UN resolutions on conflict diamonds. When this office requires input in order to participate in discussions or make decision at the EU or the UN, the Ministry of Foreign Affairs will seek advice from other ministries. For example, on issues pertaining to imports and exports the ministry of economic affairs will be approached for input, or in the case of financial issues the Ministry of Finance will be approached. Once the EU has adopted the necessary regulation to implement UN sanctions (such an EU regulation is directly binding for EU citizens), the Ministry of Foreign Affairs becomes responsible for ensuring that violation of EU regulations and UN sanctions are punishable under Dutch national law.

⁴³ Letter from Edmunds Basil, HM Customs and Excise, Restrictions and Sanctions Team, (June 8th, 2001).

⁴⁴ Interviews with Willy van der Kraan, Ministry of Foreign Affairs, Policy Officer Southern Africa region, and Karen van Dantzig, Ministry of Foreign Affairs, Policy Officer/beleidsmedewerker on export controls and sanctions, (June 2001).

The Netherlands has a standard law (*Sanctiewet*), enacted in 1997, which can be used to introduce rules and measures to implement UN sanctions. Therefore, no new laws have to be submitted to Parliament every time a sanction needs to be implemented. Under the *Sanctiewet*, the decisions to implement the June 1998 UN resolution on Angola came into force on October 6th, 1998. The July 5th, 2000 UN resolution on diamond imports from Sierra Leone came into force on October 16th, 2000. These national decisions follow decisions and regulations taken at the EU level on respectively July 28th, 1998 (Angola) and August 3rd, 2000 (Sierra Leone).⁴⁵

The Dutch policy is to wait for EU decisions before enacting UN resolutions, as opposed to Belgium which implements the measures immediately and the UK, which uses its secondary, law to quickly enact upon the UN resolutions.

Before making regulations to implement sanctions, the usual procedure is to first look into the consequences of these sanctions for the Netherlands. For instance, in 2000 an inventory was done by the Economic Inspection Service (*Economische Controledienst*) (at the Ministry of Economic Affairs) to assess the trade in diamonds and the implications of the UN sanctions for the Netherlands. Since the inventory revealed no diamond imports from Angola were entering the Netherlands at that time, the conclusion was that the sanctions had few implications for the Netherlands. Consequently, the implementation of the sanctions did not receive priority, both in relation to policy and allocation of personnel to monitor the imports of conflict diamonds.

In the Netherlands, the Ministry of Economic Affairs is the competent authority for economic affairs with regard to sanctions. It is this ministry which issues export permits. This ministry is responsible for the Economic Inspection, which is instructed by the Ministry of Foreign Affairs to look for violations of UN sanctions and EU regulations. Therefore, it is the Economic Inspection Service that is responsible for monitoring the implementation of customs and border control mechanisms, as well as related criminal investigations. In addition, the National Tax Service (*Rijksbelastingdienst*), part of the Ministry of Finance that is responsible for customs, also has a supervisory function with regard to the implementation of sanctions.

The Ministry of Finance (fiscal department, customs office) instructs the customs service as to what steps they must take to implement UN sanctions and EU regulations. In order to proceed quickly, the customs service first might be instructed through a fax, which would be followed several months later by an announcement with the same contents as the original message but this time in the format of an official publication.⁴⁶ This was the case, for instance, with the sanctions relating to Angola and Sierra Leone. The August 3rd, 2000 EU regulation on the conditions for imports of rough diamonds from Sierra Leone — following the UN resolution on July 5th, 2000 — was faxed to customs on August 9th and replaced by a official announcement which was agreed upon January 8th 2001 and published February 7th.⁴⁷ The instructions received by customs

⁴⁵ Niet-fiscale douane voorschriften, Deel I, Band A / Medelingen - 2e herdruk, Suppl. 19, (7 February 2001), Medeling nr. 32: Sanctie maatregelen ten aanzien van Sierra Leone, p. 3; Idem, (20 oktober 1999), Mededeling nr. 20: Aanscherping sancties tegen Angola; Official Journal of the European Communities, Brussels, August 1st, 1998, L215/1-11; Idem, (August 8th, 2000), L 220/21 –23.

⁴⁶ Letter from K. Nanninga, Customs, Information Officer, (June 6th, 2001).

⁴⁷ Medeling nr 32 Sanctiemaatregelen ten aanzien van Sierra Leone.

include details on what products and trade activities are forbidden for import and/or export and the UN and EU decisions on which the instruction is based. It also mentions which governmental body is responsible for supervising these measures, as well as who needs to be informed in the case of irregularities.⁴⁸

The researchers have found that the Netherlands has not taken any measures as regards to sensitive countries. This might be a result of the lack of EU regulations on sensitive countries, since the Netherlands enacts EU regulations on UN sanctions, rather than directly taking action on UN sanctions. This is however, an issue that needs to be raised: since in 1999, rough diamonds were imported into the Netherlands from Liberia, which was then a sensitive country, and later became subject to UN sanctions.

3.4 Conclusions

The EU enacted quickly on each of the UN resolutions through a common position by the Ministers of Foreign Affairs, which is within the scope of the EU common foreign and security policy (pillar II of EU decision-making structure). Furthermore, an EU Regulation on each UN resolution was adopted on the necessary trade restrictions that are within the scope of the EU common commercial policy. The EU Regulations are to prevent unfair competition between EU members which have, and which have not, implemented the UN resolutions. The EU has not yet co-ordinated its decision-making process nor its position towards the Kimberley process.

Only the Netherlands waited for an EU Regulation to enact upon the UN resolutions, which took several months before all measures came into force. In contrast, Belgium's license system made it feasible to implement the UN sanctions the day after they were adopted. The Belgian licenses also allow for strict measures on imports from countries under UN embargo or from sensitive countries. The UK used its secondary legislation on UN sanctions to proceed quickly. The UK and the Netherlands do not have a Diamond Task Force such as Belgium, which strengthens the capacity of UN resolutions through information exchange and consultation among the many ministries involved.

⁴⁸ Niet-fiscale douane voorschriften, Deel I, Band A / Medelingen - 2e herdruk, Suppl. 19, (7 February 2001), Medeling nr. 32: Sanctie maatregelen ten aanzien van Sierra Leone, p. 3; Idem, (20 oktober 1999), Mededeling nr. 20: Aanscherping sancties tegen Angola.

4 Monitoring and inspecting diamonds at the border

Once the UN Security Council resolutions and EU regulations are translated into laws and regulations at the national level it is important to consider how these measures to prevent the entry of conflict diamonds into each of the countries are implemented and carried out. This report examines how border inspections and other mechanisms in place to monitor the diamond trade actually operate. Examining these experiences can help to provide insight into how a possible internationally agreed-upon certification system would operate at the Belgian, UK, and Netherlands borders.

4.1 Belgium: inspecting every parcel

In Belgium both the Ministry of Economic Affairs and the Ministry of Finance are in charge of supervising the observance of the regulations on the international diamond trade. As explained below, the Ministry of Economic Affairs checks the relevant documents, gathers the relevant statistics, issues import and export licenses, and checks the licenses and certificates of origin of diamonds coming from Angola and Sierra Leone. This ministry institutes and supervises inspections of all diamonds by expert inspectors. When these inspectors report irregularities, the Ministry of Economic Affairs informs the customs service which in turn initiates an investigation. The customs service operates under the supervision of the Ministry of Finance. In these cases, there is a system of continuous checks and counterchecks between the two ministries.

The Ministry of Economic Affairs has a License Office (the Licensing and Monitoring Office), located in Antwerp, which is in charge of implementing and supervising all regulations on international diamond trade in Belgium. This office is the only authority in Belgium endorsed to grant import and export licenses.⁴⁹ Belgium is one of the few countries that operate a specific system of import and export licenses for diamonds.

The Belgian system

All imports and exports of diamonds from and to non-EU countries require a license, administered by the Ministry of Economic Affairs. A diamond dealer can only obtain import and export licenses for diamonds if registered with the Ministry of Economic Affairs, in the Commercial Trade Register and with the Value Added Tax (VAT) administration. All nationals from outside the EU who wish to be self-employed and professionally active in the diamond sector must have a special permit, which is issued following an official inquiry by the Ministry responsible for small- and medium-sized businesses.⁵⁰ When the Ministry of Economic Affairs processes a request for an import or export license, it will be alerted if a trader is not registered. If he is not registered, the diamond trader is asked to fulfil all the requirements to register.⁵¹

In order to obtain a license to import or export diamonds (including powder and synthetic diamonds) to and from countries outside of the EU, a diamond trader needs to

⁴⁹ *Diamonds and Belgium*, p. II/1; *The Belgian Monitoring System*, p. 5; and interviews with officials from the Ministry of Economic Affairs, (June 2001).

⁵⁰ *Diamonds: The Belgian Experience*, April 2001, p. 5; *Diamonds and Belgium*, p. II./2; *The Belgian Monitoring Systems*, p. 5-6.

⁵¹ Interview with officials from the Ministry of Economic Affairs, (June 2001).

provide certain information. Any importing or exporting of diamonds carried out without a license is punishable by law, as is the provision of incorrect or incomplete information. Most of the information included in the declaration to obtain a license is taken up in the license itself. This includes the country of the seller of the diamonds, the country of origin of the diamonds and the country of provenance.⁵²

The request documents for a license application need to state the country of origin where the diamonds are mined, as well as the country of provenance (where the diamonds are being directly imported from). The Ministry of Economic Affairs checks this information but acknowledges that it can never be sure of the exact country of origin in the event that it differs from the country of provenance.⁵³ More attention is being paid to diamonds of "unknown origin," a designation usually given to shipments containing a mixture of diamonds with different countries of origin. The Ministry of Economic Affairs discourages the use of this designation and requires as often as possible an accurate declaration of the country of origin. According to a study carried out by the Diamond Office, such designations accounted for less than 30% of the trade during a five-month period.⁵⁴

For rough diamonds coming from countries under the UN embargo which should be accompanied by a certificate of origin/or are coming from sensitive countries, the Ministry of Economic Affairs will issue an individual instead of a global license.⁵⁵ As described in chapter two, an individual license is only applicable for one single certificate of origin, one single shipment of diamonds, and to one individual diamond merchant involved in the transaction. In contrast to global licenses, which are administered by the Diamond Office, individual licenses are managed directly by the Ministry of Economic Affairs. Individual licenses clearly allow for tighter and better monitoring and inspections than do global licenses, which cover large quantities of imports.

⁵² Information on the license itself describes the:

- identity of the importer/exporter;
- VAT-number of the importer/exporter;
- value of the goods in national currency;
- weight/quantity;
- country of the seller/buyer;
- country of origin of the goods;
- country of provenance/destination of the goods;
- specification and description of the goods;
- tariff-code of the goods;
- date of delivery of the license;
- date of validity of the license (six months);
- authorized customs declaration office; and
- any additional information requested.

⁵³ Interview with officials from the Ministry of Economic Affairs, (June 2001).

⁵⁴ *Diamonds and Belgium: Facts and Figures*, p. III/ 2; Final Report of the Monitoring Mechanisms on Angola Sanctions (S/20000/1225), p. 47.

⁵⁵ Ministry of Economic Affairs Belgium, *The Belgian Monitoring System: Licenses, Statistics, Certificates*, (February 2001), p. 5-9.

On any import license issued by the Ministry of Economic Affairs, the importer has to declare that it is not valid for goods from Angola and Sierra Leone. This highlights the fact that a separate import system is in effect in Belgium for Angola and Sierra Leone.⁵⁶

Diamond trade with EU countries

Due to European free trade laws, no licenses are allowed to trade diamonds between EU countries. However, diamond traders in Belgium must declare every import or export of diamonds within the EU to the Ministry of Economic Affairs. They must fill in a document entitled "statistical report of receipt /import of diamonds" or "statistical report of shipment/export of diamonds". These documents contain the same data that are required for licenses described above.⁵⁷ This allows the Ministry of Economic Affairs to monitor the intra-European trade closely and collect information for its detailed database on the diamond trade in Belgium.

The executive body

The Ministry of Economic Affairs has entrusted the Diamond Office to carry out the inspections of diamond shipments as they are entering or leaving the country.⁵⁸

The Diamond Office is part of the Diamond High Council, which co-ordinates, supports and represents the diamond business in Antwerp, and operates as a company. Diamond Office carries out border operations for the Ministry of Economic Affairs on a commercial basis. All authorised imports and exports of diamonds in Belgium must pass through the Diamond Office. It is there that all necessary border inspections take place. The Diamond Office also offers commercial services for diamond traders, including the carry out of customs clearance paperwork.

In addition, the Diamond Office provides the experts who design the certificates of origin and co-operates with countries under embargo to issue non-forgable certificates of origin. For instance, on March 29th, 2000 the Diamond High Council signed a structural co-operation agreement with the government of Angola. Both parties agreed to introduce an import confirmation certificate and to exchange data, technical assistance, and research into the characteristics of Angolan diamonds. Diamond Office also provided the technical assistance to draw up a system of certification of diamonds from Sierra Leone following a trilateral meeting with Belgium, the US, and the UK. This has been approved on later by the Security Council.

Furthermore, the Diamond High Council and the Democratic Republic of Congo signed an agreement in April 2001 to set up a certification scheme for Congolese diamonds, similar to the systems existing for Angola and Sierra Leone (certificate of origin, import confirmation to the exporting country, electronic data exchange and digital photographs of the goods). This system has not yet been officially recognised. Once this voluntary certification system is introduced, one obstacle to its effective implementation will be that ministries in all importing countries will need additional capacity and financial resources to verify the certificates.

⁵⁶*Diamonds and Belgium: Facts and Figures* p. III/2.

⁵⁷ *The Belgian Monitoring System*, p.7; *Diamonds: The Belgian Experience*, p. 5.

⁵⁸ *The Belgian Experience*, p. 7; *Progress Report on Conflict Diamonds*, p. 8; *Antwerp Diamond Newsletter*, (May 2001), p. 1-2.

Because the Diamond High Council operates on behalf of the Ministry of Economic Affairs, as well as for the diamond companies, there are concerns that there could be conflicts of interest, which would undermine the monitoring and inspection system. When the discussion on conflict diamonds started, the Ministry of Economic Affairs claimed that steps were taken to guarantee the independent implementation of the diamond trade monitoring and inspection system. It is beyond the scope of this report to assess the impact of these measures on the objectivity and independence of the border inspection services that the Diamond Office provides for the Ministry of Economic Affairs.

One entry point, many inspections

Belgium has only one point of entry for all diamonds—The Diamond Office in Antwerp. This is where all diamonds are checked and cleared by customs before entering Belgium. For instance, customs officers at the Zaventem Airport are instructed that all diamonds arriving at the airport must be transported to Antwerp, and that they must provide the necessary documentation to facilitate that transfer.⁵⁹

Since the implementation of UN Sanctions on conflict diamonds, inspections of diamonds have been more substantial in general. Belgian customs have intensified the inspections outside the Diamond Office.⁶⁰ One step taken was to strengthen the monitoring of flight staff and crew. In particular, those working on flights from Africa are being more thoroughly checked. This was considered a necessary inspection measure since previously, flight staff and crew were not being checked at all. EU law does not allow those working on flights within the EU to be checked.

There is obviously no information available as to how much diamond smuggling takes place: diamond sector experts estimate 20%, but this percentage is contested by the Ministry of Economic Affairs.⁶¹

Following several cases of brutal robbery, Zaventem Airport is being bypassed for the transport of diamonds and other valuable goods. According to officials from the Ministry of Economic Affairs, if shipments for Antwerp go through Schiphol Airport in the Netherlands, full inspections of the certificates of origin will not take place at Schiphol but in Antwerp. This has been confirmed by an interview with a Dutch customs officer who said that customs at Schiphol would check the seal and have the sealed package transported to Antwerp. However, as EU law does not allow for import licenses to be issued for diamonds coming from the Netherlands, nor border inspections to be carried out by customs officers, more research should be done in order to determine whether this arrangement undermines the Belgian system of regulating diamond trade and the use of the certificates of origin.

Customs

Collaboration between the Belgian customs department (which is part of the Ministry of Finance) and the Ministry of Economic Affairs in Antwerp has been intensified due to the need to regulate conflict diamonds.⁶²

⁵⁹ Interview with officials from the Belgian Ministry of Economic Affairs.

⁶⁰ *Diamonds and Belgium: Facts and Figures*, p. III/3.

⁶¹ Interview with officials from the Ministry of Economic Affairs.

⁶² *Diamonds and Belgium: Facts and Figures*, , p. II/1-3., III/3.; *The Belgian Monitoring System: Licenses, Statistics, Certificates*, p. 7-9; *Diamonds: The Belgian Experience*, p. 5-6.

All the formalities related to importing or exporting diamonds in Belgium must take place in the building of the Diamond Office.⁶³ At the Diamond Office, a team of seven customs officers:

- complete the standard inward and outward clearance formalities for the import and export of diamonds to and from non-EU countries;
- verify information supplied by the applicant on the import or export license (for example, the name of the importer, account number);
- check the documents that accompany the parcel (for example, the check plane tickets to prove the provenance if couriers are involved, check the bill of lading, and invoice);
- verify if the import or export license matches the actual weight and value of the parcel.

Under the Law of 11 September 1962 and Belgian customs legislation, the customs authorities can prosecute those who present incorrect or fake information and confiscate the goods in question. The customs authorities are the only Belgian authorities that have the legal authority to do so.

Imports from and exports to EU member countries are not subject to customs formalities due to EU free trade laws. Though these imports and exports are still subject to the administrative requirements concerning the statistical report on diamonds and the physical expertise inspection by the Ministry of Economic Affairs.

Inspection of all diamond parcels

At the Diamond Office every shipment and every parcel contained in a shipment of diamonds (all categories) for both import and export is inspected (physically checked) and appraised, as required by the Ministry of Economic Affairs.⁶⁴

Even powdered diamonds are inspected. Imports from EU countries are also checked, even though this is not legal under the EU system. Some diamond traders are not happy with the inspections of each package of diamond traded within the EU, because it costs money and takes time. Therefore, a special inspection office was created at the Diamond Office to handle diamonds traded within the EU.

The goal of these inspections is to check the actual content of the parcels against the information (value, weight, and classification of the goods) declared on the documents that accompany the parcels (such as the import/export license).

Physically checking the packages is considered to be a very important step in ensuring that no conflict diamonds are being imported and in the prevention of smuggling.

Government-certified experts inspect all parcels. In total there are 11 certified experts who are selected, appointed, and sworn in by the Ministry of Economic Affairs. To be

⁶³ See above: the Diamond Office is a department of the Diamond High Council (Hovernierstraat 22, 2018 Antwerp) which has been entrusted by the Ministry of Economic Affairs and Ministry of Finance to operate the control system and customs operations.

⁶⁴ *Diamonds: The Belgian Experience*, p. 6; *Diamonds and Belgium: Facts and Figures*, p. II/3, III/3-4; interviews with officials from the Ministry of Economic Affairs and Jan Gregoir, Diamond Office, Director.

appointed as an expert, candidates have to pass a practical and theoretical exam, the contents of which is outlined in a ministerial decree. The Ministry of Economic Affairs has taken steps to guarantee the independence of these experts. Since to a certain degree it is possible to visually determine the origin of diamonds, the Ministry of Foreign Affairs arranged for the experts to be briefed on the geological/gemmological characteristics of Angolan diamonds by a gemmologist

In practice, each diamond parcel is not individually weighed. Experts argue that someone with practical experience can do this simply by looking at the parcel. After the parcel is opened, only some diamonds are checked. It is left up to the expertise of the expert inspector to determine if there are irregularities that suggest that a more thorough inspection of the parcel is necessary (see box). If the expert questions the origin of the shipment, a qualified gemmologist will be consulted.

The inspection is carried out under the supervision and in the presence of officials from the Ministry of Economic Affairs. These officials decide which expert will check a shipment, in order to ensure that experts are rotated. Inspections are videotaped so as to provide evidence, for example in the event that diamonds are missing.

Diamond parcels are inspected by experts appointed by the customs authority. This “double check” is designed based on customs criteria.

Any differences that the certified

At Belgium's Diamond Office

Within the Diamond High Council, a particular area is assigned to Diamond Office where customs clearance and inspections take place. The entrance is guarded and there is a locked security gate. The area where the diamonds are inspected is in the cellar, which is protected by a bunker-like structure (a "service of the Diamond Office").

Customs officers operate out of one of the basement corners within the inspection area located behind a counter. It appears to be very busy at the customs counter. Sometimes very large packages are delivered, usually by couriers. So many couriers are involved in this trade that it seems that it could be difficult for the officials and inspectors to know them all and lose their objectivity.

The diamonds that are delivered to the customs department are stored in safety deposit boxes behind the counter. The joke is that sometimes it is tense because a package is missing. "It always reappears by the end of the day," says a customs official, but small packages get pushed around in the safety deposit boxes and can get misplaced during the day.

The couriers wait at another counter until an official from the Ministry of Economic Affairs assigns "their" diamonds to one of the certified experts for inspection. In the area where the inspections take place, there are several tables for the inspectors to sit at and carry out their work. Additional instruments for more detailed inspections are housed in another adjoining room.

During an inspection viewed by SOMO, two diamond parcels were unwrapped but the diamonds remained in a transparent package. Through the plastic transparent packaging, the certified expert checked several diamonds with a magnifying glass. None of the packages were weighed. According to Jan Gregoir, Diamond Office's director, an expert can judge the weight of a package simply by looking at it. The person sitting opposite the expert uses a calculator to determine the value of the different packages.

The entire procedure of inspections and clearing customs takes an estimated 33 minutes.

SOMO researcher Myriam Vander Stichele visited the Diamond Office on June 11th, 2001 and met with the Office's Director Jan Gregoir. Vander Stichele observed the customs procedures and diamond inspections.

experts find between the content of the diamond parcels and their accompanying documents are reported to officials from the Ministry of Economic Affairs. These officials then inform the Customs Department, which has the authority to take further action in relation to identified violations or mistakes.

In the Belgian experience, there seems to be no pattern to the irregularities that have taken place, or any particular country more often involved in such cases.

Inspecting certificates of origin

The direct import of rough diamonds from Sierra Leone and Angola is only authorised if diamonds are accompanied by a certificate of origin. In the sections that follow, the special procedures used by Belgian Customs and the Ministry of Economic Affairs to handle the certificates of each of these countries are described.

A certificate of origin (CoO) for diamonds must include the following information:⁶⁵

- certificate number
- identity of the consignee
- identity of the exporter
- parcel number
- weight
- value
- date of issue
- date of export
- stamps and signatures of the authorities in country of origin

Checking CoO's from Sierra Leone

The certificate system in Sierra Leone became operational on October 27th, 2000.⁶⁶ Under this system, certificates of origin, which must accompany the import of rough diamonds, are issued by the government of Sierra Leone and are printed on special (forge-proof) paper.

A complete certificate has three parts:

- the certificate of origin
- the Import Confirmation Certificate (ICC) which is detachable
- a security seal with the numbers that appear on the CoO and ICC, which is affixed to the box containing the diamonds in such a way that the seal is automatically broken if the box is opened

An electronic data exchange system has been set up to check the certificates and the lots of diamonds. This system (hardware and software) operates in Sierra Leone, at the Government Gold and Diamond Office (GGDO), and in Belgium, at the Monitoring and Licensing Office of the Ministry of Economic Affairs in Antwerp. The transmission of electronic data takes place through a secured server.

⁶⁵ *The Belgian Monitoring System: Licenses, Statistics, Certificates*, p. 13-14.

⁶⁶ *The Belgian Monitoring System* p. 11b, 13-16; *Analysis of Current Practice and Experience of National Certification Schemes for Rough Diamonds from Angola and Sierra Leone*, p. 4-8, annex 7b; interview and correspondence with Frieda Coosemans at the Belgian Ministry of Economic Affairs, License Office, Deputy Adviser.

The procedures in Antwerp to check the certificates of rough diamond imports from Sierra Leone

1. The office authorised to handle these shipments in Sierra Leone (GGDO) sends secured electronic data to the Ministry of Economic Affairs (MEA) in Antwerp. This includes information on the characteristics of the parcel and the diamonds, the certificate, and photos of them.
2. The MEA electronically confirms with the GGDO in Sierra Leone that they have received the electronic data.
3. The photos sent electronically are printed out by the MEA on a colour printer.
4. When the shipment of rough diamonds (closed with a security seal and with accompanying documents) arrives at customs, customs officers examine the sealed bag.
5. Customs officers manually record the sequential number of the security bag on the Import Confirmation Certificate (ICC), without opening the box.
6. Customs then delivers the original Certificate of Origin (CoO) to the MEA in a sealed envelope.
7. The MEA checks the original CoO with the data they have received electronically in order to verify the authenticity of the CoO. If the CoO seems to be in order, the MEA issues an import license for the shipment. On this license it says that the original CoO was delivered to the MEA.
8. The MEA delivers the import license, printed photographs of the goods and the parcel, and the original CoO to customs at the Diamond Office, in a sealed envelope.
9. After incoming customs clearance formalities, customs officials place a stamp on the ICC. At this point though, customs officials can call in a certified expert to inspect the package before finally clearing it through customs.
10. The sealed package containing the rough diamonds, along with the documents and photographs, is inspected by the MEA-appointed expert.
11. The approved license and the original CoO together with the stamped ICC is returned to the MEA, where the documents from the expert inspector are also sent.
12. The MEA checks the original CoO against the electronic data and the documents arriving from the certified expert. When satisfied, MEA stamps the ICC with its seal of approval.
13. After verification of the approved license, the inspection documents, and the original CoO, the MEA (electronically) informs the GGOD in Sierra Leone that the import of the parcel has been successfully completed.
14. The MEA returns the stamped ICC (with record of the valuation on the reverse side) to the GGOD in Sierra Leone, both electronically and by post.
15. The MEA keeps the original CoO with a photocopy of the ICC.

Between October 27, 2000 and April 10, 2001, Belgium received 43 parcels with certificates of origin from Sierra Leone. Belgium received information that in total, 62 parcels were exported from Sierra Leone, with the rest going to Israel, the US, and the UK, and three certificates being cancelled. Belgium received electronic information on only one CoO that was cancelled by Sierra Leone authorities.

Although Belgium reports that no irregularities have occurred to date (no forgeries, etc.), there were problems with one parcel with a CoO that changed destination. The first importer in another country refused to buy the parcel after having seen it at customs. The seal was broken for opening the parcel but was verified when it arrived in Belgium through the CoO and GGOD in Sierra Leone. Belgian officials' note that the sealed bag, which contains the sealed box with diamonds and the CoO, is easily opened without breaking the seal of the bag.

Checking CoO's from Angola

Each shipment of diamonds entering Belgium from Angola must be accompanied by a certificate of origin.⁶⁷

If there is the slightest doubt about the validity of the certificate, the Ministry of Economic Affairs contacts the Belgian Ministry of Foreign Affairs, which requests that the Angolan authorities in Luanda verify the document in question. No import license will be issued until the certificate of origin is verified. If the certificate is false, customs officials will confiscate the goods. This can result in sanctions, imprisonment of up to one year (or up to five years or more in the case of a repeat offence), and a fine in the amount of twice the value of the seized goods.

Procedures to check Angolan diamonds upon arrival in Belgium

1. The certificate of origin, along with other shipping documents, is transferred to the Ministry of Economic Affairs (MEA).
2. The MEA thoroughly verifies the authenticity of the original certificate of origin and issues an individual import license, which indicates that the original certificate was sent to the MEA (as stipulated by the UN Resolutions).
3. The import license is handed over to the customs officers.
4. The diamonds are inspected by the certified experts.
5. After inward clearance, the customs sends the approved license back to the MEA.
6. The MEA verifies the approved license and retains information on the shipment for its database.

The MEA keeps the original CoO.

Between July 1st, 1998 and the end of March 2001, Belgium received 217 parcels of diamonds from Angola with the old style CoO, and 161 parcels accompanied by the new forgery-proof CoO.

Belgian authorities did detect a false certificate of origin in April 1999. Customs took the appropriate measures by confiscating the goods immediately. For the same parcel, a

⁶⁷ *The Belgian Experience*, p. 7; *Analysis of Current Practice and Experience*, p.1-2.

second certificate was presented. The MEA consulted with authorities in Angola and determined that the second CoO was not issued according to the rules and therefore was not authentic.

Customs and inspections experts pay special attention to imports from African countries which do not produce diamonds or which might indirectly export conflict diamonds but for which no certificates exist.⁶⁸ Documents contain the wording "origin unknown" for parcels containing diamonds of various origins also receive special attention.

The Diamond Task Force as a monitoring tool

The Diamond Task Force, which exchanges information from the different Belgian ministries (described earlier in chapter 2), appears to function as a useful tool to enhance the monitoring and enforcement capacity of the different offices and agencies involved in regulating the diamond trade in Belgium. Because the Security Services and the Ministry of Foreign Affairs are involved in this task force, information is also available on diamond exporting countries, including sensitive countries.⁶⁹

Statistics to monitor the diamond trade

An important aspect of Belgium's detailed database on diamond trade is that it is used as a tool to help monitor the trade. Although the Ministry of Economic Affairs in Antwerp does some research to analyse the figures and explain unusual trends, it does not have the capacity to do detailed research and investigation on a regular basis.

In order to improve the use of data for monitoring purposes, Belgium is studying how a computer system could be used to monitor the flow of diamonds and control related criminal activities. Belgium is also investigating the possibility of developing a computerised alarm system linked to the diamond trade database.

The use of statistics as a monitoring mechanism, especially when it involves the exchange of information from other countries is hampered by different definitions of carats, the different valuation of diamonds, and a lack of uniformity. Sometimes, diamonds are imported as rough diamonds but in Antwerp diamond dealers decide to use them as industrial diamonds. In India, it seems that industrial diamonds are used for cutting. This is an issue that needs to be raised because Belgian statistics and certification system on rough diamonds do not include any industrial diamonds so that changing classifications can be used as a loophole to import conflict diamonds.

Additional measures

1. The Ministry of Economic Affairs organised special meetings with the Diamond High Council. As a result, the Council declared it committed itself to taking the necessary measures to ensure better monitoring of the Antwerp diamond sector.⁷⁰ The Diamond High Council, in collaboration with the Antwerp diamond 'bourses', is developing a code of ethical behaviour for Belgian diamond dealers. Violations of this code would be handled by the sector itself.
2. A protocol agreement focusing on the exchange of information has been negotiated between the Office of the Public Prosecutor of Antwerp and the Diamond High Council.

⁶⁸ *Diamonds and Belgium: Facts and Figures*, p. III/2.; *The Belgian Experience*, p. 8.

⁶⁹ Interview with Frank Demeyere, Ministry of Economic Affairs, Deputy Chief of the Cabinet.

⁷⁰ *Diamonds and Belgium: Facts and Figures*, p. III/3.

3. The Ministry of Economic Affairs has asked the gemmological department of the Diamond High Council to make an illustrated "atlas" with descriptions of the characteristics of all African diamonds, classified by areas where they are mined

4. The Belgian Customs Authority has asked their colleagues in other EU countries to look more closely at clandestine imports of diamonds coming from African countries.

4.2 The UK: selective inspections

The inspection of diamonds entering the UK is operated by the customs department (Her Majesty's (HM) Customs and Excise Department).⁷¹

No licenses are required for diamonds being imported or exported to and from the UK. The UK does not have one entry point for diamonds: diamonds can be imported at any official border crossing. In practice, most diamonds coming to the UK will be imported through London because that is where De Beers stores its diamond reserves.

In order to enforce the UK legislation and customs regulations related to conflict diamonds, the employees of HM Customs and Excise (HMCE) working at the border are informed about the sanctions and have the exact description of the diamonds and goods prohibited under UN sanctions. However, not every diamond shipment is inspected. Enforcement measures are highly selective and targeted, according to HMCE. Specific information gathering and risk assessment techniques are used, focusing attention on the importer, goods, country of origin, and official and commercial documentation checks. Customs officers select import consignments for further inspection and use risk assessment techniques to target their customs control efforts to comply with the sanctions.

HM Customs and Excise (HMCE) does not check to see if imported diamonds are genuinely coming from the stated country of origin. Because there is no inspection technology that can accurately judge the origin of the diamonds, it is considered impossible to trace a diamond's origin. HMCE has no experts whose job is to verify the origin of diamonds. If customs officers need to assess the origin of a particular consignment of diamonds, they seek professional assistance.

Diamonds imported from Angola and Sierra Leone need to be accompanied by a certificate of origin. Diamonds arriving from these two countries without certificates will be confiscated by customs officials. Certificates of origin are examined by customs officers to determine if they are genuine. For instance, the paper and the signatories are examined. Researchers found that the methods used to check certificates of origin in the UK were lacking. For example, no attempts are made to contact the relevant authorities in Angola and Sierra Leone to verify the authenticity of the certificates. The UK currently has no electronic database linked to Sierra Leone, as is the case of Belgium.

Customs officers also check to see if the content of the package matches the description on the accompanying certificate of origin and if there is a security seal on the package. The latter is not broken before going on to the trader. Once inspected, customs officers

⁷¹ Interviews with Clive Wright, Foreign and Commonwealth Office, United Nations Department, June - August 2001; Letter from Basil Edmunds, HM Customs and Excise, Restrictions and Sanctions Team, (June 8th, 2001).

place their stamp on the import confirmation certificate slip, which is sent back to the exporting country (Sierra Leone or Angola).

Since De Beers stopped importing diamonds directly from conflict regions since beginning 2000, few direct imports from Angola and Sierra Leone enter the UK, according to an official from the Foreign and Commonwealth Office. De Beers, which traditionally operated in and imported from Angola and Sierra Leone, has closed its offices in these countries in order to sever its link with conflict diamonds. However, there are still questions as to whether De Beers indirectly imports diamonds from these two countries via neighbouring (sensitive) countries. The UK customs department does not check diamonds coming from non-conflict regions. Diamonds coming to the UK from Antwerp or from other EU countries are not checked, because the UK respects the prohibition of such inspections under EU legislation. SOMO researchers found no indication that UK diamond trade statistics are being used by the authorities in the UK to track the trade in conflict diamonds in the UK.

4.3 The Netherlands: customs officers are ill informed

The executive body responsible for customs controls in the Netherlands is the Central Customs Department (*Centrale Dienst In- en Uitvoer*). Although formally under the jurisdiction of the Ministry of Finance this department can be instructed, when necessary, by other ministries.

Although customs officials are informed on what products are covered by sanctions or certificates of origin, there is no real enforcement in the Netherlands of the UN resolutions on the diamond trade. The Dutch Ministry of Foreign Affairs admits that the Netherlands does not have the infrastructure to implement the UN procedures and correctly process diamonds with certificates of origin coming from Sierra Leone and Angola.⁷² There is a lack of personnel, due to cutbacks in government administrative personnel, and the general flow of goods is very large. The inability to handle certificates of origin in the Netherlands was confirmed by an official from the Belgian Ministry of Economic Affairs responsible for implementing the sanctions.

During the course of this research SOMO found that many customs officials were not aware of the requirements regarding conflict diamonds. For instance, customs officers in Amsterdam and Rotterdam could not answer the questions posed by SOMO and referred the researchers to other customs branches of the customs department.

Dutch customs officers also appeared to have little expertise or training in relation to inspecting and appraising diamonds in general, and conflict diamonds in particular. There is only one customs official based at Schiphol airport, who has some expertise in diamonds; this is mainly based on his previous education (i.e. before working at customs), as well as personal interest.⁷³ When diamonds need to be inspected, he is called in by his colleagues. As is the general problem of inspecting diamonds, it is impossible for him to recognise the country of origin of diamonds. In practice, shipments of diamonds of all categories (rough, cut, etc.) are imported into the

⁷² Interview with Willy van der Kraan, Dutch Ministry of Foreign Affairs, Policy Officer for Southern African Region, (June 2001).

⁷³ Interview with Edwin Jansen, customs official at Schiphol Airport.

Netherlands on an average of twice a week. This “diamond expert” customs official reported that he is asked by the “*expertise team*” to monitor imported diamonds only twice a month.

Unsealed packages of rough diamonds being sent to Antwerp are hardly being monitored at all. At Schiphol, customs officers examine the seals of sealed packages that are going to Belgium. There is no established system to verify that the seals and certificates of origin are authentic and have not been tampered with.

In practice, the customs official with diamond expertise is almost never asked to inspect diamonds coming from sensitive countries. Indeed, Dutch customs officers are not being instructed to perform special checks on diamonds coming from such countries (see chapter 2).

Given the large flows of goods and the lack of inspections taking place, there is a possibility that diamonds are being smuggled into the Netherlands. Since diamond traders are “*onder curatele*” (legally responsible) if diamonds disappear or appear in a suspect way, there is a general sense among customs officials that it is too dangerous for diamond traders to smuggle into the Netherlands.

Monitoring conflict diamonds in the Netherlands

According to the customs regulations for the sanctions on Angola, the Economic Inspection Service (*Economische Controle Dienst/ECD*) and the officials from the Customs/ Tax Department (*Rijksbelastingdienst, bevoegd inzake de douane*) are responsible for supervising the implementation of the customs regulations regarding the UN sanctions and EU directives.⁷⁴ However, the ECD, which is part of the Dutch Ministry of Economic Affairs, does not have enough staff to do so. In practice, the ECD only has the capacity to react to reports on violations of the regulations. So far, no incident has been reported to the ECD regarding conflict diamonds.⁷⁵ In general, most reports that are submitted to the ECD concern exports to countries such as Iraq or Yugoslavia. The ECD has little experience with imports.

An official from the Ministry of Foreign Affairs confirms that the ECD lack of expertise and staff results in very limited possibilities for the organisation to take any action in relation to the diamond trade.⁷⁶

The customs regulation for sanctions on Sierra Leone mentions that in case of doubt or when irregularities occur, customs officials should contact the Customs Information Centre (*Belastingdienst/Douane Informatiecentrum*) (DIC) which in turn must contact the Ministry of Economic Affairs (Department of Export Control and Sanction Policy).⁷⁷ Some DIC officials told SOMO that they were not aware of sanctions on conflict diamonds. Though additional information and interviews were requested by SOMO, no information was made available and customs officials declined further interviews, making it impossible to thoroughly judge the DICs' capacity to handle the monitoring and inspection of conflict diamonds.

⁷⁴ Niet-fiscale douane voorschriften, Deel I, Band A / Medelingen - 2e herdruk, 20 oktober 1999, Mededeling nr. 20: Aanscherping sancties tegen Angola, p.4.

⁷⁵ According to the information available to Klaas Leenman, Ministry of Economic Affairs, Economische Controle Dienst, (June 2001).

⁷⁶ Interview with Willy van der Kraan, Ministry of Foreign Affairs .

⁷⁷ Niet-fiscale douane voorschriften, Deel I, Band A / Medelingen - 2e herdruk, Suppl. 19, (7 February 2001), Medeling nr. 32: Sanctie maatregelen ten aanzien van Sierra Leone, p. 3.

When diamonds enter the Netherlands through a third country, for example from Belgium, there are no legal means or staff resources at the customs department or the ECD allocated to verify their country of origin. Most of the imported packages contain mixed diamonds (diamonds originating from more than one country), making it even more difficult to trace their origin.

In general, the customs department and the ECD have more expertise in dealing with bans on exports, rather than sanctions on imports. The customs' computer system has “warning” profiles for products being exported to countries under UN sanctions. No such system exists for imports of diamonds.

4.4 Conclusions

The methods by which rough diamond imports are monitored and inspected at national borders vary widely between Belgium, the UK and the Netherlands. All imports from other European countries, whatever their origin, can not be subject to customs operations. Belgium, however, monitors such imports through data collection. In addition, each and every diamond parcel, including those from non-EU countries, is checked by expert inspectors appointed and supervised by the Ministry of Economic Affairs. In the UK, customs use special methods to select diamond imports from non-EU countries for border inspection. Customs control of diamond imports in the Netherlands is very limited, even if it concerns countries under UN embargo or sensitive countries. There is no capacity for supervising special customs controls for the implementation of UN sanctions.

Only Belgium regulates diamond trade in such a way that all imported or exported diamonds pass through one location where inspection expertise is concentrated and all formalities take place. This location is partially operated on a commercial basis. It was beyond the scope of this research to assess the measures to guarantee its independence.

The capacity of verifying the certificates of origin for diamonds imported from Angola and Sierra Leone was equally very different in the three countries researched. Belgium has the most elaborate system to verify certificates from Sierra Leone, with direct and secured electronic links with the Sierra Leone authorities, as well as established procedures between the Ministry of Economic Affairs and customs. Between October 27, 2000 and April 10, 2001, 43 certificates were verified in that way.

Certificates of origin from Angola, 378 between July 1998 and March 2001, were also thoroughly verified by the Ministry of Economic Affairs, but the authorities in Angola are only directly contacted in case a certificate is suspect. Once fully verified, the original certificate of origin of the imported diamonds from both countries is filed at the Ministry of Economic Affairs, and do not further accompany the diamonds.

In both the UK and the Netherlands, there are no thorough, elaborated procedures to fully verify the certificates of origin, which is now being done by customs. No direct links to contact the Sierra Leonean or Angolan authorities have been established. This weak verification of the certificates is especially worrying for the UK, because it has been importing diamonds from Angola and Sierra Leone also after certificates were introduced. The UK is a large importer of rough diamonds which in the future might all need certificates of origin that will need to be verified.

5 Conclusions

This report aims to provide an overview of the ways in which three EU member states, Belgium, the UK, and the Netherlands have implemented UN resolutions to prevent the import of diamonds from rebel-held areas in Angola and Sierra Leone. These resolutions were motivated by a desire to halt brutal civil wars in those countries, financed in part through the proceeds of diamond sales.

Research examining how these three European countries regulated and inspected trade in direct and indirect imports of rough diamonds revealed that inspection and monitoring were very different. This included differences in the ways certificates of origin, required by UN resolutions to accompany the imports of rough diamonds from Angola and Sierra Leone, were verified. In general, Belgium's border controls and capacity to verify certificates of origin is the most developed, not matched by the UK and certainly not by the Netherlands.

- **Different responsibilities and different methods of implementation**

Belgium and the UK have an important responsibility for implementing UN resolutions on diamond trading. For instance an estimated 70% to 80% of all rough diamonds on the world market pass through Belgium. Mainly due to the presence of de Beers Offices in London, The UK is also a large importer of rough diamonds, having imported more than Belgium in 1999. The Netherlands is involved in only a very small part of the world's rough diamond trade.

Belgium has considerable responsibility for the processing of imports with certificates of origin from Angola. It imports the largest part of the official Angolan diamond production, and imports have been increasing since the UN resolutions went into effect in 1998. The UK also imported directly from Angola in 1999.

Trade figures indicate that Belgium has imported less and less rough diamonds from Sierra Leone since UN resolutions require such imports to be accompanied by certificates of origin. The Sierra Leone authorities have declared that certificates were also accompanying exports to the UK, but this was not reflected in the trade figures analysed in this report (which do not cover the period October - December 2000 and from April 2001 onwards).

Since the UN resolution on Angola was adopted in 1988, most imports in Belgium from "sensitive" countries, that potentially import and export prohibited diamonds, have increased. Those of the UK have decreased, except for Namibia and South Africa. The Netherlands imported a small amount of diamonds from Liberia prior to a UN resolution ban. This gives Belgium an important role in checking for indirect imports of conflict diamonds.

- **Lack of standardised trade data**

As observed by UN experts reporting on the monitoring mechanisms used to implement the Angola sanctions, there is still the general problem that trade statistics are inadequate to monitor the diamond trade and track illegally traded diamonds. Trade

statistics provided by different countries are not fully comparable. This can lead to anomalies in trade figures.⁷⁸

Belgium did not include trade statistics on rough or roughly worked 'industrial' diamonds in its reports on conflict diamonds, nor did it fully explain some surprising trends in the available statistics. UK statistics included very incomplete figures on the country of origin, in reference to all imported rough diamonds and the country of provenance. The figures of Belgium, the UK and the Netherlands did not match in regard to trade in rough diamonds among themselves.

Notwithstanding this lack of information and standardised definitions, statistics are still valuable for analysing trends in order to scrutinise suspect rough diamond imports by national authorities, as is the case in Belgium. The UK and the Netherlands did not use statistics to help monitor compliance with UN resolutions. The UK Customs and Excise department even prevented external monitoring by refusing to provide UK figures on rough diamonds for this research. This might be due to the commercial interests of De Beers, which is one of the world's largest traders in rough diamonds.

- **Little transparency in the UK and the Netherlands**

Transparency regarding the measures taken by Belgium, the UK, and the Netherlands to implement UN sanctions on conflict diamonds varies greatly. Access to information for this report has been hampered by the decision of the participants of the Kimberly Process to keep the responses to the detailed questionnaire confidential. Only Belgium published regular reports with detailed information about the regulations and border checks in place to avoid conflict diamonds. Such information was much less accessible and widespread among government officials in the UK and the Netherlands. Lack of information about the UN resolutions among customs officials of the Netherlands has been especially worrying.

- **Variation in Implementation procedures and capacity**

The EU implemented each of the UN resolutions, first through a common position by the Ministers of Foreign Affairs within the scope of the EU common foreign and security policy. Secondly, an EU Regulation on each UN resolution was adopted on the necessary trade restrictions within the scope of the common commercial policy.

The unique diamond import licensing-system, already in place before the UN diamond sanctions were adopted, allowed Belgium to strictly enact all UN resolutions the day after they were adopted. Neither of the other two countries had such systems in place. The UK's United Nations Regulation Act is secondary legislation that allowed the UK to adopt new legislation to implement the three UN resolutions, without waiting for parliamentary approval, one week to one month after they were passed.

The Netherlands used a similar secondary legislation provision (the *sanctiewet*), but it took several months before the laws on UN resolutions came into force. Before that time, Dutch customs officials had already been informally informed.

Only the Netherlands has waited to take action on the UN resolutions until after the EU had passed the related EU Regulations.

⁷⁸ *Final Report of the Monitoring Mechanisms on Angola Sanctions*, nrs. 194 and 203.

Of the three countries, only Belgium has a Diamond Task Force in which several ministries exchange information at both the political and administrative levels. This Task Force has strengthened Belgium's capacity to implement the UN resolutions.

Given the economic importance of the diamond trade for Belgium, and to avoid negative publicity, the government has provided financial and human resources to prevent conflict diamonds from entering the country. The Dutch government, on the other hand, decided that dealing with conflict diamonds was not an economic priority and has not allocated new resources to its personnel-strapped customs departments. For the UK, researchers learned of no special resources allocated for the implementation of UN sanctions on conflict diamonds.

Some of the obstacles to implementing the sanctions experienced by the Belgian Ministry of Economic Affairs can only be solved with international support. For example, issuing licenses for diamonds can be difficult if the conflict areas where diamonds are mined change from day to day, meaning that the legality of imported diamonds can also change from day to day. On its own, the Belgian government cannot verify if conflict diamonds have received authentic certificates of origin from the appropriate authorities in Angola and Sierra Leone.

- **Lack of border control mechanisms undermines UN resolutions**

The ways rough diamond imports, including their certificates of origin, are monitored and inspected at the border, vary widely between Belgium, the UK and the Netherlands. Within EU member states, imports from other European countries, whatever their origin, cannot be subject to customs operations.

Belgium, however, monitors such imports through data collection. In addition, expert inspectors appointed and supervised by the Ministry of Economic Affairs check each and every diamond parcel, including those from non-EU countries. Still, not every individual diamond is actually inspected.

In the UK, customs use special methods to select diamond imports from non-EU countries for border inspection. This limited border control of diamonds seems insufficient to implement UN resolutions given the large amount of rough diamond imports into the UK.

In the Netherlands, customs control of diamond imports, including those from countries under UN embargo or from sensitive countries, is very limited. The capacity to supervise controls for implementation of UN sanctions is non-existent.

Only Belgium regulates diamond trade in such a way that all imported or exported diamonds must pass through one location where there is inspection expertise. This location is partially operated on a commercial basis. Three agencies are currently involved in checking all diamond imports and exports.

- **Costly procedures to check certificates of origin**

The capacity to verify the certificates of origin for diamonds imported from Angola and Sierra Leone was very different in the three countries researched. The Belgian government established an electronic system to exchange information with Sierra

Leone, which includes the exchange of photos of the diamonds as well as the sealed parcels. Belgium is the only country willing to commit itself to such a costly operation. Although Belgium has not worked out such a direct electronic communication system with the government of Angola, the certificate verification system allowed Belgium to detect some irregularities. For both countries, the verification of certificates follows well-established procedures between the Ministry of Economic Affairs and Customs.

In both the UK and the Netherlands, there are no such elaborated procedures to verify the certificates of origin, which is now being done by customs. No links have been established to directly contact authorities in Sierra Leone or Angola.

This weak verification of the certificates is especially worrying for the UK because it has been importing diamonds from Angola and Sierra Leone at the time certificates were required. As it is a large importer of rough diamonds, the UK will need to seriously strengthen its verification capacity if in the future all rough diamonds will be accompanied by certificates to origin.

In the Netherlands, lack of trained personnel as well as the absence of awareness of UN resolutions means that these resolutions were in practice not implemented. Further research is needed to find out how seriously the situation in the Netherlands might undermine overall implementation of UN resolutions; especially since recent imports of rough diamonds through Schiphol Airport to Antwerp have increased due to a boycott by transport companies of Belgium's Zaventem Airport for security reasons.

- **EU free trade rules hamper checks on indirect imports**

The established free trade provisions of the EU are undermining the inspection of all rough diamonds traded among EU member states. Such inspections might however be useful in ensuring that conflict diamonds are not being indirectly imported. For instance, Belgium is not allowed to operate a license system for imports coming from other EU countries even though (as this report shows) the checks on diamonds imported in some other EU countries are very weak. Moreover, the physical inspection of diamond imports from EU countries at the Belgian entry point violates EU legislation. For the moment, there is no real pressure to challenge these inspections, but other EU countries, such as the Netherlands and the UK, refrain from extensive border checks due to EU legislation. This could mean that EU countries do not forego free trade obligations under the EU Treaty, although UN resolutions require them to "act strictly in accordance with the provisions of [UN resolutions] notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into". Moreover, Regulations adopted by the EU to implement UN sanctions did not regulate rough diamond imports from the so-called 'sensitive countries', although they potentially trade in conflict diamonds.

Another contraction between the EU common foreign and security policy, which decides on UN sanctions, and the EU common trade policies, is the lack of an EU co-ordinated decision-making or position towards the Kimberley process.

- **Insufficient regulation of Indirect imports**

The conclusions reveal many obstacles to implement the call of the UN resolutions to ban "indirect" imports, imports of rough diamonds from Angola and Sierra Leone

without a certificate of origin, and imports from countries that might export conflict diamonds (the 'sensitive countries'). This highlights the need for certificates of origin for all rough diamonds. However, the effectiveness of the current certification needs to be assessed. The certification system only operates at the first border of entry of diamonds from Sierra Leone or Angola, and not when the diamonds are later exported to other countries. The certificate does not accompany the rough diamonds through the cutting and polishing process until they are sold to customers.

The UN resolutions to help break the link between the trade in conflict diamonds and the perpetuation of violent conflicts in Africa stand as a challenge, both to the EU and individual European countries. Indeed, the main challenge of all countries involved is to show whether their priority is peace and security in Africa, or their own economic and trade interests.

6 Recommendations

Based on the research and the conclusions drawn from this research, The following recommendations can be made:

1. Trade statistics should become more useful to detect indirect imports or smuggling of conflict diamonds. Changing classification can not be permitted to be used as a loophole to import conflict diamonds. Therefore, trade statistics and definitions of rough diamonds, including industrial diamonds should be standardised. All trade statistics should include information about the country of origin alongside the country of provenance. Governments should require all diamond dealers to declare the country of origin of their products.
2. Before, or at the latest at the time of introducing a world-wide certification system of rough diamonds, the Kimberley process should institute an international database with standardised statistics on imports and exports of rough diamonds to and from all countries with information on (stockpiling) diamond reserves. This database should be made available online to all government. Citizens should have easy access to regular publications of these statistics.
3. All national governments should allocate enough resources to analyse the available trade data and enact upon anomalies. An international independent monitoring system should verify the (standardised) data, and have the capacity to investigate whether exports of conflict diamonds are being diverted to "sensitive countries" or to other countries with lax import controls. These efforts should be supported by the development of computerised systems to detect conflict or smuggled diamonds and identify important loopholes in the use of certificates of origin.
4. The lack of transparency on how UN resolutions are implemented, as experienced with the UK and the Netherlands in these reports, needs to be addressed to allow external scrutiny of the measures in place. The responses to the Kimberley Process questionnaire should be fully published with information broken down by country, and not just made available in an aggregate format.
5. The UK should urgently reinforce its mechanisms of border control and verification of certificates given the significant amount of rough imports. It should examine and operate useful inspection and monitoring methods as applied in Belgium on all rough diamond imports. The UK should establish a Diamond Task Force to strengthen its capacity to implement UN resolutions.
6. The Netherlands should improve its border controls in a cost-effective way, in order to avoid becoming a country through which conflict diamonds are indirectly imported. Also, the Netherlands should consider what additional border control mechanisms are needed since Schiphol Airport is being used more frequently for diamond shipments to Belgium.
7. Belgium needs to fully assess whether the absence of import licenses for diamonds imported from the Netherlands can undermine its checking mechanisms.

8. Belgium should thoroughly investigate its long-standing differences between import and exports to determine whether the higher export figures of rough diamonds are due to differences in stockpiling and valuation of diamonds, or whether the smuggling of rough diamonds is involved.
9. The international community should put pressure on UN bodies responsible for monitoring the UN resolutions to check thoroughly and regularly that no conflict diamonds receive certificates of origin from the authorities in Angola and Sierra Leone. Moreover, they should disclose the numbers of the certificates of origin being issued by the governments concerned.
10. Before a full international certification system on rough diamonds is set up, discussions and international negotiations are needed to ensure allocation of the necessary resources, so that exporting countries correctly issue certificates of origin and importing countries fully monitor and verify the certificates. An assessment of the functioning and commitment of the current system of certificates is a good basis for this discussion. A Belgian suggestion to replace certificates for some not-too-sensitive countries by (less expensive) certified invoices should be discussed.
11. A new certification system must be developed in order to examine ways to certify polished diamonds in such a way that the diamond monitoring system can make a connection with the retail customers. For they are buying diamonds and also have a responsibility in relation to stopping the trade in conflict diamonds. A first step would be to have diamonds from Sierra Leone and Angola accompanied with certificates of origin until they are polished and sold as jewels.
12. Based on Belgium's experience with certificates from Sierra Leone and Angola, the UN member states should resolve the problems Belgium has raised, including the issue of parcels changing destination after the first importer broke the security seal, but refused to buy the parcel after seeing it at customs.

Recommendations to the EU

13. Within the EU, statistics of trade in rough diamonds among member states should be made fully comparable and include information on the countries of origin. Statistics on trade in rough diamonds among EU member states should match each other. The European Commission should build the capacity to analyse anomalies in the trade statistics of all member states, which might be related to trade, or smuggling, in conflict diamonds.
14. Given the high cost of mechanisms to monitor and inspect rough diamond imports and to verify certificates, the EU member states should discuss among themselves what resources they want to allocate individually and collectively for the implementation of a certification system for all rough diamonds. They should consider whether each EU country should operate one location for checking the import and exports of diamonds. In that way, the necessary expertise and inspection instruments can be efficiently concentrated.

15. The option suggested by Belgium that there be only one or just a few entry points for rough diamonds within the entire EU needs to be discussed. The EU country serving as an entry point would then be responsible for fully monitoring and inspecting diamond import and providing the necessary documents for exports to other EU countries.
16. The EU should define and maintain a list of ‘sensitive countries’ and adopt a Regulation to improve inspections of diamond import from these countries.
17. The European Commission should explore ways to create the necessary scope to forego EU free trade rules, which prevent necessary checks (e.g. licenses) on trade in rough diamonds among EU member states, as long as not all countries have strict diamond controls at their external borders.
18. EU member states need to urgently decide what the mandate of the Commission is in relation to discussions in international fora on conflict diamonds, as well as a new certification system. The EU policy decision-making instruments need to be streamlined. However, this exercise should not result in EU positions reflecting the lowest common denominator, but promote important efforts such as have taken place in Belgium. A co-ordinated EU position must not put the protection of commercial interests before international peace and security.
19. Within the scope of the Common Foreign and Security Policy, the EU should play a role to ensure that the UN is more explicit on how the UN resolutions need to be implemented. A deadline for when the implementation mechanisms should be in place needs to be fixed.
20. The EU should assess whether WTO rules could block measures by which stricter controls on diamonds from some particular, sensitive, countries are forbidden (i.e. no application of Most Favoured National rule). If WTO rules could block such measures, the European Commission should initiate discussions regarding this issue within the WTO.

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8 Annexes

- I United Nations Security Council Resolution 1173 (1998)
- II United Nations Security Council Resolution 1295 (2000)
- III United Nations Security Council Resolution 1306 (2000)
- IV United Nations General Assembly resolution 55/56: *The role of diamonds in fuelling conflict: breaking the link between the illicit transaction of rough diamonds and armed conflict as a contribution to prevention and settlement of conflicts.*
- V United Nations Security Council Resolution 1336 (2001)
- VI United Nations Security Council Resolution 1343 (2001)
- VII Niet-fiscale douane voorschriften, Deel I, Band A / Medelingen - 2e herdruk, Suppl. 19, February 7th, 2001, Medeling number. 32: *Sanctie maatregelen ten aanzien van Sierra Leone.*
- VIII Niet-fiscale douane voorschriften, Deel I, Band A / Medelingen - 2e herdruk, October 20th, 1999, Mededeling number. 20: *Aanscherping sancties tegen Angola.*
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