

“FREQUENTLY ASKED QUESTIONS” CONCERNING A REVISED DEFINITION OF “CONFLICT DIAMOND”

THEMATIC QUESTIONS:

Q. What will be some of the benefits to such a change?

A. If the KP definition of “conflict free” keeps pace with global trends and responds to likely consumer expectations of the meaning of “conflict-free,” the positive impact will be great throughout the KP. Forward thinking decisions that put the KP ahead of events rather than running to catch up will be consistent with what was established a decade ago: A KP system whose goal is to promote the good, rather than focus on the negative. By updating the definition to meet consumer expectations, it will give legitimate production further reputational protection when crises emerge.

Q. What if the KP declines to make any change in the definition? Why can't things just stay as they are?

- A. There are several key reasons why this change is needed:
- **The public expects it.** Even if retailers or others in industry do not all hear the demand of consumers now, the lesson of other industries is that stakeholders must plan and work ahead to prevent or mitigate risk and proactively adapt to the evolving expectations of consumers and policymakers.
 - **This is the time.** The KP does not face such a crisis at present, but likely will in the future. Once the crisis happens, it will be too late to respond in anything but an ad hoc manner which will again generate concerns about fairness. Consensus-based systems can best be adopted before a crisis situation, which suggests now is the time for the KP.
 - **This is how we ensure fairness.** The KP has already taken steps in these kinds of situations, but there are no clear rules or processes for doing so. This leads to *ad hoc* and inconsistent approaches. The KP must adopt changes that ensure uniform and fair action.
 - **The KP must recognize changes elsewhere.** The proposals track with those agreed on by the International Conference on the Great Lakes Region, OECD, and other international initiatives. If the KP does not keep pace, then diamonds will be certified at lesser standards than other resources and face potentially adverse economic consequences.

- **The KP has a responsibility.** Millions of people -- from artisanal miners to cutters and polishers to retailers -- rely on the diamond trade for their livelihoods. Moreover, the development of many producing countries relies in part on diamond revenues. The KP has the expertise and capacity to continue to play a positive role in the sector by preserving the reputation of diamonds and ensuring this trade on which so many depend is not fueling armed conflict.

Q. Isn't this definition change just a way to dictate to developing countries and deny them the right to use their resources?

A. Any proposal to update the definition of conflict diamond should seek to ensure the KP remains a credible institution that establishes a level playing field for all diamond producers worldwide. The market looks to the KP for determinations on diamond sources, and once a country is a Participant and in compliance, it is on par with all other KP Participants. Should the KP fail to play this role, the market will need to make its own determinations, which may not affect all countries equally. This has already been seen in the markets for other commodities connected to conflict that do not have an initiative such as the KP.

Q. The KP is not a human rights organization; human rights issues should be dealt with by other expert bodies.

A. An updated definition should cover conflict. Human rights issues are clearly implicated in such situations, though it is the concept of conflict that remains at the core of the KP certification. Achieving progress on human rights issues will be best dealt with through a focused commitment by KP Participants and Observers on development and engagement with other institutions that focus on human rights.

Q. Aren't there other organizations in the world that handle issues related to armed conflict? Why does the KP need to do more on these issues, when it lacks the expertise?

A. There are several international organizations that deal with such issues, but none do so specifically with respect to diamonds. Just as in the 1990s, when the UN and other bodies responded to the conflicts in Sierra Leone, Liberia, and Angola, the KP was still needed to provide specific action to protect the legitimate diamond supply and to help these other organizations limit the impact of illicit diamond sales. Now, as then, should there be such situations, even if other

institutions are responding to an armed conflict, they do not have the expertise to address the diamond supply chain in the way the KPCS does.

Q. Is anything like this contemplated definition in use elsewhere?

A. Adapting the KP's definition along these lines would restore KP to the mainstream if not the vanguard. The 11 member states of the International Conference on the Great Lakes Region are establishing national laws to require certification of other minerals using a broader view of conflict as a basis for certification. Organizations like the UN Security Council and OECD have already adopted such a standard for conflict-free. Soon, commodities such as tantalum, tin, tungsten, and gold will be subjected to a broader system of national certification than diamonds, and companies around the world will be implementing rigorous due diligence protocols to ensure compliance. Diamonds, we believe, cannot long afford to remain outside the trend.

Q. How do we know rising consumer expectations threaten the market status quo?

A. While there may not be statistics from retail stores to show what percentage of diamond consumers already demand broader assurances, concern among retailers and interest among their suppliers is increasingly focused on this issue. What is clear, based on experience elsewhere, is that if we fail to initiate change until such statistics clearly emerge, it will already be far too late. Not only have delays in adapting to demands ahead of time cost other industries dearly, those industries have had to expend considerable effort and capital to undo the damage done to their reputation before beginning to receive credit for their changed attitude. History shows that consumers demand more accountability for their products, not less, in both established and emerging markets. This is one reason the industry's KP observer organization, the World Diamond Council, has clearly backed this effort, including adopting a resolution on it during its annual meeting in May.

PROCEDURAL QUESTIONS

Q. What are examples of conflicts that would affect a Participant's right to issue a Kimberley Process Certificate (KPC) for particular rough diamonds?

A. An updated definition could apply to diamond-related conflicts that meet generally agreed-upon standards of armed conflicts, such as a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State. This would also apply to circumstances of systematic violence, such as protracted and violent internal disturbances and tensions, grave acts of violence or acts of a similar nature over an extended period. Such a definition would not apply to individual or isolated cases. Neither would this apply to violence that is unrelated to diamonds. The primary goal of such an updating is to preserve the legal and positive trade in diamonds, not to seek out opportunities to exclude legitimate trade.

Q. How would the KP decide to invoke an updated definition?

A. Procedural details will be based on the specific proposals put forward, but I believe the KP should adopt by consensus a package which includes an updated definition and the procedures for both invoking and terminating action under that definition. One of the primary goals in adopting an updated definition is to establish a clear, consistent, and transparent process for identifying conflict diamonds that applies to all Participants. We would expect the process for invoking an updated definition to be based on clear, tangible evidence and decision-making procedures agreed to by all KP Participants.

Q. Would rough diamonds from the whole country be refused KP certificates or only those from an agreed designated area of conflict (or from specific mining or manufacturing sites)?

A. Under a contemplated definition, the restriction could apply to rough diamonds from the identified/specific mining or manufacturing sites. This would build on a range of KP precedents, such as in the Central African Republic, where the KP identified in September 2011 areas of concern in eastern CAR in a manner that did not affect production from other areas of the country. The KP does not need to exclude a Participant from the KPCS entirely in order to adopt this type of change.

Q. When such an armed conflict occurs, is the KP's principal or only response to conflict to exclude diamonds by revoking the right to issue a KP Certificate?

A. No. There are a range of steps the KP can take when a diamond-related conflict occurs. These include first working with the concerned country upon its request to help it resolve the problem, restricting certificate issuance, coordinating

with internal and external law enforcement, rallying regional support for the affected country, and facilitating the provision of technical assistance, if requested and appropriate. The appropriate assistance for each situation will naturally be different.

Q. Does the KP offer assistance to resolve the conflict?

A. While the KP is neither a development nor a conflict resolution organization, and should remain focused on its core responsibilities, KP Participants and Observers should provide expert technical assistance and guidance on best practices to fellow members if requested. The focus is most likely to be on prevention or mitigation of potential conflict situations or on reinforcement of peace following resolution of the conflict.

Q. How would you determine when a conflict has ended? What would have to change on the ground and what would be the process in the KP?

A. As with the process to identify when a conflict diamond situation has begun, the procedural details of determining when a conflict has ended will depend on final proposals presented. But again, the principles should state a need for clear, tangible evidence that the conflict has ended or that the connection between the diamond trade and the conflict has ended, and that the legitimate trade is no longer in danger. As stated, the primary goal is to preserve the legal and positive trade in diamonds, not to seek out opportunities to exclude legitimate trade or complicate the market. We would expect that there would be an open and transparent process identified at the outset that would govern the situation, preventing any inconsistent or *ad hoc* approaches.

Q. How will the KP protect against politicization or exceeding the mandate when implementing an updated definition?

A. The mandate of the KP is to prevent rough diamonds from fueling conflict, and any change to the definition would be in line with this mandate. An updated definition of conflict diamond and a clear process for determining when that definition has been met is actually the best protection against politicization of the KP and exceeding the mandate because clear, consistent, and consensus-based procedures will be the best way to ensure it is invoked only when appropriate and based on tangible, verifiable, and credible evidence.