

Dear Chair of the Kimberley Process,

The Kimberley Process Civil Society Coalition (KPCSC) acknowledges receipt of your correspondence of 13 and 25 October 2016, a welcome but long overdue response to the mediation proposal sent to the chair by the Coalition in January.

We would like to start by affirming that the Civil Society Coalition boycott on the UAE's Chairmanship remains in place, and we will not be attending the Kimberley Process (KP) Plenary session in Dubai later this month. This is a consensus position among all Coalition members.

Our boycott must continue due to the lack of concrete action taken by the Chair to address serious failings within its own jurisdiction that impact the integrity of the diamond supply chain, and consequently, the KP's credibility. This renders the UAE's presidency of the KP as flawed at the end of 2016, as it was in Luanda in November 2015.

This letter provides further detail on our boycott position, clarifies certain matters in your recent communications, and outlines the Chair's lack of response to and action on civil society concerns. We also provide a preliminary response and commentary to your recent proposals, for example, a KP Secretariat and civil society funding.

1. Chair's failure to engage constructively and genuinely with the KPCSC

Constructive and genuine engagement with the KP Civil Society Coalition by the UAE is a prerequisite to its ability to truly preside over a genuine tripartite process, and as such a "KP family" in its true sense. This is a message affirmed by other observers and KP participants. Sadly, the UAE has failed to meet this prerequisite.

In a bid to ensure constructive engagement from the UAE, the KPCSC sent a remediation proposal to the Chair in January 2016, outlining four key areas of concern in need of address by the UAE. These were accompanied by a number of concrete and readily actionable steps that could be taken to address deficiencies in the UAE's internal controls and thereby improving the efficacy and credibility of the KP.

Far from engaging constructively with the proposal, the UAE's immediate response was to lodge a formal written complaint against the Coalition for referencing the UAE's 2015 review visit report in the body of its proposal. Unfortunately, four months into mediation and with no progress to show—the Coalition had to conclude that the UAE was not a serious partner and was forced to officially withdraw from mediation. The coalition's reasons for this was fully intimated in our letter to the KP Chair and Participants in advance of the Intersessional in May (attached), including the fact that the boycott would remain in place for the rest of the year.

In response, the Chair used his opening speech at Intersessional to launch an unhelpful and unprecedented personal attack on both the Coalition and its individual members. The Chair's attempts to discredit the role of the Coalition's African members saw them issue a strong and unified response to this disinformation. Despite strong statements against the Chair's behaviour from a variety of stakeholders, there was no attempt by the Chair to rectify false and widely published allegations in his closing speech – as requested by individual Coalition members.

After over eight months of silence in response to the KPCSC's initial submission of its remediation proposal in January and only one month before the KP Plenary in

Dubai, the UAE sent the KPCSC a surprise invitation to attend Plenary. Instead of being a genuine attempt at collaborative engagement with the Coalition or a response to our January proposal, the letter rather outlined a number of activities in which the Chairmanship has engaged over 2016. While some parts reference the broad categories of concern raised by the Coalition (valuation), others seek to justify a lack of action on other areas (i.e cooperation with international law enforcement, enhanced vigilance procedures for diamonds from the CAR, and civil society engagement) by reference to weak or dated outreach.

For these reasons, the UAE has failed in its principle leadership task of constructive and genuine engagement with the KPCSC.

a) Valuation

The Coalition notes with interest the efforts by the UAE to begin a discussion on the complex topic of the diamond valuation, including ways to ensure more accurate and fair market valuation for diamonds. We note with concern, however, the lack of sufficient consideration given to the dynamics of artisanal diamond valuation or to policies and practices in trading and manufacturing centres to address price manipulations that negatively impact African producers.

Indeed, we are concerned that the seminars are designed to deflect attention away from the UAE addressing specific vulnerabilities and responsibilities regarding valuation procedures in the Dubai Multi-commodities Centre (DMCC). The issue of best practices in diamond valuation for all KP members should not be used to obscure the fact that the UAE has yet to rectify significant deficiencies in its own processes. In its remediation proposal (attached), the KPCS outlined 8 steps — 6 of which were readily actionable by the UAE. This would have “leveled the playing field” in respect of diamond valuation and import by at least raising the UAE’s own standards to that of other major trading states, rising to the UAE’s own call to “do better for Africa”.

This is particularly pertinent to the credibility of the UAE’s Africa Initiative given recent revelations concerning the fact that DMCC subsidiary, the Dubai Diamond Exchange, has been appointing African government officials to positions on its board, placing them in a clear conflict of interest with the national economic interests of their countries. These appointments seem allocated purely on the basis of positions of influence – with the dropping of certain officials once their term in office has ended (see open letter attached).

We encourage the UAE to demonstrate good faith in addressing the valuation issue by rectifying the significant deficiencies in its own processes, as outlined by civil society actors, the Financial Action Taskforce (FATF), as well as in KP review visit reports. This would enable its Africa Initiative to be seen in its best light.

Finally, it remains unclear what concrete outcomes are envisioned from the valuation seminars that will address broader concerns about value manipulations in the diamond chain. In the absence of any draft Administrative Decision circulated by the UAE prior to Plenary, the Coalition encourages the UAE to maintain a genuine commitment to this issue with the incoming chair. Moreover, we encourage the UAE to follow through on its commitment to addressing valuation by taking up the invite of the FATF to discuss this matter further, including in respect of its own practices.

b) Central African Republic (CAR)

Regarding the CAR, the Coalition’s primary concern remains the absence of enhanced vigilance measures among KP participants, particularly UAE, to prevent

illicit diamond flows from rebel-affected areas of the country. The most recent report expressing strong concerns about KP participant's practices and the UAE's role in this regard, was published by Amnesty International in September 2015 - only a few months before the start of the UAE's chairmanship, and two years after the KP's Administrative Decision requiring members to take extra measures to stem illegal CAR diamonds.

It is clear to members of the Coalition and UN experts that the hard work of the CAR authorities and the KP Monitoring Team to re-establish the formal diamond trade in the CAR will be continually undermined by pressure from the illicit trade as long as neighbouring countries and key trading hubs fail to address weaknesses in their own systems that enable illicit flows to continue. The KP's efficacy in preventing diamond conflict in the CAR lies primarily with its ability to make its embargo effective in areas where it should rightly be in place. Once again, it is within the UAE's power to take action within its own jurisdiction—something it has failed to show leadership in doing.

c) Permanent secretariat under the United Nations

With respect to the KP Chair's proposal for a permanent secretariat housed within the United Nations, the Coalition welcomes and supports the idea in principle, though the details of such an arrangement would require further clarification. For example, the insistence on a particular race to lead the Secretariat runs counter to UN hiring practices. Similarly, a proposed funding model whereby the operational costs are borne by certain countries seems unworkable as the UN system operates on voluntary, not mandatory contributions from member states. Perhaps a more equitable model would be for each KP participant to make a contribution according to a sliding scale commensurate with the size of their market share.

Regardless, we welcome that the UAE has brought this concept to the fore. It was much discussed during the last reform period in 2013, and we hope and trust that the UAE will continue to support this discussion as it progresses next year.

d) An "independent" funding mechanism for civil society

The KPCSC works hard with limited resources to fulfil its role within the KP. It currently receives unfettered funding from the EU to support its work, which the KPCSC administers internally with full editorial independence over output and activities. Clear conflict of interest provisions are a cornerstone of this arrangement. The Coalition agrees that a multi-donor trust fund with contributions from KP participants and industry is preferable to the receipt of funds from a single source, not least on point of principle. That said, having been careful to guard its independence, the Coalition's current arrangement in no way inhibits it in directing its attention at any major weakness in the supply chain. By contrast, for civil society to be funded by industry alone has the potential for unacceptable conflict of interest implications. As such, we urge caution in any discussion on civil society funding and emphasise the need to ensure any arrangement truly does guard a legitimate space for active and independent civil society participation.

In conclusion we wish the UAE well in its deliberations during Plenary, and look forward to seeing all KP members adding definition and rigour to some of the worthy ideas being raised that have so far eluded the KP.

Kimberley Process Civil Society Coalition November 8, 2016