Has clarity been brought to the diamond sector? A survey into AML and TF risk mitigation by diamond traders and their financiers

Dijck, Maarten van

Crime Law Soc Change (2009) 52:73–94
DOI 10.1007/s10611-008-9171-z

Has clarity been brought to the diamond sector? A survey into AML and TF risk mitigation by diamond traders and their financiers

Maarten van Dijck

Published online: 2 December 2008

Abstract The international diamond trade always has been a somewhat closed world in which different rules applied compared to other sectors. The myths and mystic surrounding diamonds as the most precious material on earth are in sharp contract with the contemporary demand for transparency. The clarity of a diamond, one of its four valuables, is not reflected in the ways of the diamond industry. However, recent initiatives, such as the Kimberly Process, which attempts to put a ban on blood and terror diamonds and a handful of banking scandals, have brought a wind of change. This wind of change is to some extent a mere side-wind fanned by the hurricane of the global anti-money laundering and anti-terrorist financing movement. Banks financing the diamond trade, assurance companies providing insurances to the sector and the diamond traders and retailers have all become subject to AML and CFT legislation. *Compliance* has become the magic word in the world of financing, along with *transparency*, but the diamond sector proved to be a slack student in this respect. This paper explores the different aspects of compliance by diamond sector market players and examines whether the extension of the regulatory framework to these players have brought a shift in responsibility, away from the financial institutions financing the diamond sector. In addition it addresses the question whether the regulatory framework and regulatory practice are sufficiently developed to enable effective supervision by the authorities.

The author is Senior Intelligence Advisor at ABN AMRO Bank NV. The views expressed in this paper are the author's private views and not necessarily represent the views of the ABN AMRO Bank NV.

M. van Dijck (✉)
ABN AMRO Bank NV, Amsterdam, The Netherlands
e-mail: maarten.van.dijck@nl.abnamro.com

The diamond sector: the opacity of an 'insider' world

The phrase "Diamonds are forever" has become a commonplace for all those who at least once in a lifetime has shown some interest in jewellery. And who has not. In Western culture, and recently also in Asian culture, wedding and engagement rings, to many couples do not deserve these titles when not containing a well cut shiny diamond. The diamond symbolizes the infinite commitment of the lovers and the indestructible nature of their relation. Of course it is merely a symbol! In fact, the phrase itself has not existed forever, but was coined in 1947 by an advertisement firm in the service of De Beers, the largest diamond extraction and distribution company since that time. It was a clever marketing move, in which the image of the diamond as a jewellery item—which had become somewhat stuffy—was successfully repolished, reviving the diamond as a desired object associating its owner with wealth and social status.

De Beers, until recently run by the 'dynasty' of the Oppenheimer Family, was and still is the world's largest owner of diamond mines and at its height De Beers was estimated to extract and trade up to 80% of the rough diamonds globally [24: 19]. This strong market position enabled the Beers to artificially influence the price of rough diamond and, thereby to dominate the diamond market. For further distribution De Beers used an exclusive system of preferred vendors: the so-called sight-holders were the only outlets to whom De Beers sold its diamonds.

The diamond sector is also an 'insider' business in many other respects. The world centre for the conversion of rough diamonds to jewellery is formed by the cutting firms in Antwerp, even after the diamond crisis in beginning of the 1980s, after which many of the cutting activities shifted to regions providing cheaper labour force, such as India and China [24] and later (2000–2005) to Dubai. The Antwerp cutting centres are virtually all in hands of (orthodox) Jewish migrants, who as a religious minority in a primarily Catholic Belgium, form a closed subculture. However, only seen from the outside, the Jewish immigrants may form a homogeneous subculture. Beneath that surface there are many different groups with quite different origins (Russian, Georgian, Central European) living together other in the Antwerp diamond quarter. Lately the Indian minority in Antwerp, in particular those originating from the region of Gujarat, seem to seek an increase of their market share and have become more active in the Antwerp diamond trade [25]. Nevertheless the diamond industry can still be described as 'a (virtually) closed industry guild with high entry barriers' [8: 35].

Until recently, bargains were often not clinched on paper, but by exclamation of the word *Mazzel!*, freely translated as *Good Luck!*, and in the context of business to be understood as *I take your word for it.* In a way that is both very symbolic and very pragmatic agreements and business alliances were based in trust and often backed by family ties, long-standing friendship ties or other means of social control. This traditional way of conducting business "minimizes the need for extensive record keeping and transparency" [8:35]. Similar grounds formed the fundaments for financial service providing. As if in the diamond sector time has come to a standstill for over a 100 years, it was until the end of the 20th century common practice for banks to provide diamond firms credit on a basis of trust rather than a solid analysis of the actual value of the assets guaranteeing the loan. The trust was mutual and so were the breaches thereof, as can be illustrated by a case involving a major bank in which defrauding bank employees embezzled money from client accounts for an amount equivalent to roughly 80 million Euros.[1]

But the times have changed. The diamond sector is increasingly permeated by 'outsiders'—such as the Georgian Israeli Lev Leviev, who effectively broke the De Beers monopoly[2]—and the playing field becomes more crowded with more 'dynamic' players. Mutual trust is no longer sufficient as the primary basis for business cooperation. The diamond sector itself was late admitting this and it were external factors which ultimately forced the diamond sector to start adhering to new views, for example on the reduction of threats and risks inherent to the diamond trade. On the one hand, there was an increasing pressure from the international community to adopt measures against money laundering and the financing of terrorism. By labelling the diamond traders as 'financial institutions' and as 'gatekeepers', the diamond sector was—with a simple stroke of legislation—put on the stage of international anti-money laundering (AML) and countering the financing of terrorism (CFT).

But the wind also blows from other directions. The notion of 'blood diamonds' and terror diamonds, vividly displayed in the Hollywood movie picture 'Blood Diamonds', seriously affected the carefully maintained image of the diamond as the most pure gem. Suddenly the diamond sector had to accept an external form of regulation in the form of rules and standards imposed by the *Kimberly* Process (see below). Diamonds had to be certified in order to ensure that they not originated from beneficiaries who used the diamond profits to finance their participation in the civil wars on the African continent. If a respectable reputation is the most important (but also most vulnerable asset) to any self-respecting business [5, 8] then the diamond sector, figuratively floating on the myth and reputation of the jewel of eternity, is bound to invest all possible effort to uphold its reputation. In the current era this implies full adherence to international AML and CFT standards.

Together these developments forced the once inwardly looking diamond world to open up, to become more transparent and to be accountable to other entities than the 'traditional' bodies of self-regulation such as the High Council for Diamonds.

To understand the vulnerabilities of the diamond sector for abuse by criminals and money laundering the next section describes the diamond sector in its international context, followed by some brief remarks on conflict diamonds and the usefulness of diamonds as an alternative for criminals to cash money.

Conflict diamonds

Diamond trade is a truly global trade. Its production geography is entirely determined by the richness of diamond as a natural resource. Diamonds are found

[1] For various reasons clients who held accounts at the bank's specialized diamond office in Amsterdam had opted for a hold-mail agreement, implying that the mail relating to the accounts (such as monthly balance sheets) was not send to them, but kept at the office in Amsterdam. This created a significant vulnerability, as it effectively disabled timely detection by the account-holder /victim that unauthorized sums were wired from his account.

[2] Sharon Wrobel, *Leviev attacks De Beers pricing policy,* The Jerusalem Post, 29 NJune 2006.

on all continents. Most renowned for their riches in diamond are the West and South African countries, such as Sierra Leone, Liberia, The Congo's, Angola, South Africa and Tanzania, countries that are not only rich of diamond mines, but also known for the alluvial (surface) mining activities taking place.[3]

Some countries rich in diamond, such as Sierra Leone, Liberia and Angola, are or have been involved in (civil) war and the participating war lords took advantage of the diamond resources to replenish their war chests [15, 16, 26]. They seek control over the diamond mines and (illegal) wholesale to the detriment of the people inhabiting the region. In the Global Witness [13] report *For a Few Dollar$ More* 'conflict diamonds' are defined as '[...] rough diamonds used by rebel movements or their allies to finance a conflict aimed at undermining legitimate government'. Conflict diamonds are also referred to as 'blood diamonds'. The Global Witness definition and other similar definitions have been criticised for their biased focus on rough diamonds. Polished diamonds are exempted from this definition and therefore (as we will see) from the Kimberly Certification Program. The definition put forward by the UN[4] does not have this deficit, but still has in common with other definitions that it limits the notion of conflict diamonds to a particular type of conflict, hence illicit behaviour.[5] [21: 6].

In 2002 it was estimated that between 3% and 15% of the rough diamond trade concerns conflict diamonds [12: 11; 21: 6]. Conflict diamonds are the cause of the continuation of suffering because it profits enables of the prolongation of military activities and related civil unrest which otherwise would have come to an end because of exhaution of other resources. Their strategic importance have increased such that control over the mines have become a major cause of the conflict [3, 28]. It goes without saying that warlords, who act on the verge of political and military (il)legality have vested interests to keep the diamond industry in their region as opaque as possible.

A suitable tool for money smuggling and laundering

Although often times mentioned in the same breath, there is a conceptual difference between 'blood diamonds' and so-called 'terror diamonds'. Obviously not because the diamonds are different, but because of the purpose for which they are traded and the nature of the activities of those benefiting from the trade. Whereas blood diamonds, as described above, are used for the funding of open conflicts and (civil) war, primarily by local war lords in Africa, terror diamonds can be used for the

[3] Alluvial diamonds do not have to be excavated because they can be found in riverbeds of streams which carry eroded rough diamonds over large distances.

[4] "Diamonds that originate from areas controlled by forces or factions opposed to legitimate and internationally recognized governments, and are used to fund military action in opposition to those governments or in contravention of the decisions of the Security Council" (www.un.org/peace/africa/Diamond.html, updated 21 march 2001, no longer available)

[5] Passas and Jones' criticism to the definition of conflict diamonds extends to the limited scope of any notion of conflict diamonds. Diamonds can be (and are) implicated in many forms of illicit behaviour there is little sense in singling out diamonds used in one particular type of illicit activity as this draws away the attention from the wider problem. Referring to estimates by Smillie in 2002, Passas and Jones mention 20% as the share of illicit diamonds (linked to any type of illegal activity) relative to the overall trade, whereas conflict diamonds represent 'only' 4% [21: 6 and 7].

funding of a different kind of war, namely the one waged by internationally operating terrorist organisations. Al Qaeda, Hezbollah and other (alleged) terrorist organisations have repeatedly been associated with the trade in diamonds.

Seen from a 'war' funding perspective both the terrorist cells and the African war lords utilize diamonds in much similar ways. In both contexts diamonds are used, as a form of easy-to-handle cash, which can easily be smuggled. The rough diamond industry is very diverse and diamonds often change hands in a multiplayer 'pipeline' [12, 21]. In the case of blood diamonds weapons are often purchased abroad or the payment somehow ends up in foreign accounts held by undisclosed ultimate beneficiaries. Due to their geographical spread, terrorist cells in need of funds have to face the problem to get the money available without being noticed. A visible money trail is a major risk factor for anyone involved in illicit activity. Not only will the gatekeepers (banks and other financial institutions) be alerted and file a suspicious activity report to the local authorities, but transactions carried out through licit channels also create a paper trail that is easily traceable by financial investigators. Diamonds, for a number of reasons, fit the profile of an (almost) ideal money transfer vehicle (*similar* [21: 9]) and are used for informal value transfer [20: 69]. The fluctuations in value are relatively small so they retain their value over a longer period of time [24]; they are of small volume and therefore easy to conceal; they are without smell, meaning that sniffer dogs—one of the main weapons of any customs unit—are unable to detect hidden diamonds; furthermore, diamonds have no expiry date and can be kept in storage endlessly under various conditions and with no effect to their material qualities. In addition diamonds are 'pressed cash' [2], enabling smugglers to carry high value in low volumes without getting noticed (hiding diamonds representing a value of €250.000 is much easier than hiding the equivalent in euro or dollar notes). Fijnaut cs. in their study of organised crime mention an investigation in which diamonds had been used as value carriers in a Dutch–Canadian–Singapore connection: the equivalent of multiple millions of Dutch guilders had been smuggled between these countries [10]. In addition, diamonds have a 'global' coverage—especially important to international terrorist organisations—implying that diamonds can be traded both at the locations where preparatory activities take place (e.g. in training camps) and in target areas where final preparations (e.g. the attendance of flight lessons) need to be paid. In this respect the international network of diamond traders may (unwittingly) serve as an alternative to some forms of underground banking.

Compared to bank notes, diamonds are a favourable form of cash, with the main difference that you cannot purchase goods in the upper world economy or make cash deposits at a regular bank without being noticed. To do that, one first needs to convert the diamonds into bank notes which means that one needs to know a place where that can be done without exposing oneself to risks of detection. It is alleged that in underground banking systems, such as Hawala and Fei Chien diamonds are used as one of many instruments to settle the disbalance between accounts [23].

In addition, diamonds are ideal money laundering vehicles, because of the difficulty to objectively establish their value. That means that artificial turnover and profits are easily generated in a bogey, apparently licit, diamond trade and that exaggerated profits do not stand out and, thus, are not easily detected. These practical features do not mean that diamonds do have no disadvantages at all for criminals.

From a risk management perspective the many qualities of diamonds—for example from a money launderer's perspective—have an inherent disadvantage, also to the criminals. Smugglers, for example, may easily be tempted to run off with the diamonds for their own personal gain. War lords and terrorist organisations commissioning the smuggling, therefore, have to resort to 'security' measures to prevent smugglers from embezzling the diamonds or getting ripped. Whatever the means applied to achieve this, it entails additional costs to safeguard proper delivery of the expensive merchandise, thus affecting the cost-effectiveness of diamonds as a means of value transfer. In addition, the difficulty in determining the value of a diamond—which is a practical feature in case of money laundering—does make it difficult for the criminal traders too to verify the value of the commodity. The distrustful 'count the money' is not equivalent to 'count the diamonds': it takes an expert to verify the value of the commodity and even he probably needs more time than available 'on the spot'. To have a successful and secure exchange one needs a quiet spot and bring along an expert capable of assessing the value. Again these are cost- and time increasing elements influencing the cost-effectiveness of diamonds as criminal currency.

All in all diamonds make for a handy tool for those who want to smuggle money (value) cross-border or who must launder dirty money in order to be able to use it for upperworld investment and expenditure. But that by itself does not imply that the diamond trade as a whole is heavily implicated in money laundering. The Anecdotal evidence presented in the literature (e.g. [22])[6] may prove that occasionally diamond traders are actively and wittingly involved in money laundering operations, but it does not corroborate claims that the diamond sectors is widely abused for money laundering purposes.

Involvement of Al Qaeda, Hezbollah and others

Even-Zohar [8: 11] observes that 'The U.S. government and, specifically, its intelligence and military leaders, are increasingly stressing the link between diamonds and terrorists'. Since the war against terrorism financing has started in 2001, the plausibility of abuse of the diamond trade by terrorists and their financers have been stressed.

In its 2002 report *Guidance for Financial Institutions in Detecting Terrorist Financing* the FATF details specific cases in which a link between (illegal) diamond trade and terrorist organisations were found. In one case a suspect bought diamonds from a rebel organisation in an African country and smuggled these outside the country on behalf of the terrorist organisation. A diamond trading company was used as a vehicle to wire funds, possibly as part of a layering structure to launder the sums involved [19]. In 2003 Report Global Witness [13: 6] issued a report which—as the reports states—presents evidence of Al Qaeda involvement in the rough diamond trade since 1990. The report states that 'the trade networks and routes used by Al Qaeda to gain access to rough diamonds are the same as those used for trading conflict and illicit diamonds'. Al Qaeda diamond related activities allegedly were initially concentrated in Kenya and Liberia and gradually moved to Sierra Leone and Tanzania, but after severe repressive actions by

[6] *E.g.* James Bone, *Steel bracelets for King Bling*, The Times, 17 June 2006.

US forces in these regions the activities shifted to the Democratic Republic of Congo, South Africa and Ivory Coast. Referring to a study published by Rowan Guharatna, Global Witness claims that Al Qaeda, as a growing organisation in the 1990s became increasingly dependent on diamonds as its main source of funding, after Al Qaeda's 'headquarters' moved to Saudi Arabia in 1989 and subsequently to Sudan in 1991 (Al Qaeda returned to Afghanistan in 1996). As generally known, Al Qaeda has grown to a large network organisation with a wide geographical spread that is not merely confined to the Arab region or even the African continent. This geographic spread more or less coincides with international diamond trade lines.

However, the Global Witness report may be flawed or at the least questions can be raised with regard to the robustness and validity of underlying data. In their study published in 2006, Passas and Jones show themselves highly critical of the factual basis of any report claiming an Al Qaeda—diamond nexus. Claims with regard to involvement of any significance of terrorist networks such as Al Qaeda in diamond trade, are based on "conflicting and weak evidence as well as vague language to describe interfaces" [21: 29]. Similar to untaxed cigarettes [4] statements that diamonds are an important source of funding for terrorist groups are generally not well substantiated. Evidence presented in the international literature is at best anecdotal and often based on the same sources [21: 20]. Individuals with alleged or proven affiliation with terrorism groups may be involved in the trafficking of these commodities, but that does not justify the claim that diamonds (or untaxed cigarettes, for that matter) are a main source of funding for terrorism.

In a 2004 New York case a jeweller admitted in court that he was involved in cash transactions which later appeared to be have a link to the illegal procurement of weapons destined for terrorist attacks [8: 33].

In spite of the anecdotal nature of the evidence, the mere plausibility that these lucrative (semi-)underground markets are used to raise money for illicit causes, cannot be ignored by law enforcement and/or contra-terrorism agencies [21: 2; 4]. Further investigation into the diamond terrorism nexus seems therefore justified. On the one hand, attention is drawn to the vulnerabilities of the wholesale segments (both with regard to rough and polished diamonds) of the industry [21, 24], especially since the Kimberly Certification (discussed further on) does not apply to polished diamonds. On the other hand it is the rather the murky world of alluvial mining that is pointed to as poorly regulated. Alluvial mining countries, such as Sierra Leone and Angola which provide for a fertile landscape for illegal diamond trade.

Here we touch upon another (though related) theme, well highlighted by Even-Zohar: most AML and CFT activity in the diamond sector focuses on the wrong part of the commercial chain. The AML regulatory framework seems to apply to the better regulated 'upper level' of wholesale and distribution as is to be found in centres like Antwerp while this approach seems to ignore the huge money laundering and terrorism financing potential of the alluvial mining industry.

Diamonds, money laundering and 'organised crime'

The vulnerability of the diamond sector is repeatedly illustrated by cases which, besides involving diamonds, have one shared denominator: the relatively large amount of the losses involved. In 2007 criminals succeeded in accessing the vault of a Belgian branch of a large bank specialized in diamonds, reportedly at a loss of more than 20 million euros. In 2005 diamonds of an alleged value of €70 million were stolen from Schiphol Airport (the Netherlands). In 2001 diamonds were stolen from Zaventem Airport (Belgium), believed to be worth €6,5 million. Of course, though the robberies do not constitute an act of money laundering, sooner or later the thieves will have to launder at least part of the gains in order to reap the benefits of their heist. Although spectacular, these acts of crime are not indicative for a structural link between diamonds and money laundering.

As mentioned, terrorists and their financiers might not be the only ones making use of the various qualities of diamonds as monetary commodity. A comprehensive study into the vulnerability of the Belgium diamond sector was conducted by Ghent University. The 300 pages report concludes that the diamond sector, back in 2001, was 'extremely to very vulnerable' (*zeer grote tot grote kwetsbaarheid*) to organised crime. More specifically, the report states that "criminal activities in the diamond sector primarily concern fiscal and economic crimes, money laundering and the trafficking of (conflict) diamonds". The report mentions in addition that the diamond sector is (or was in 2001) characterised by non-transparency and that "the nature of the commodity, the (infra)structure and the reputation of the sector create additional opportunities for abuse by persons from in- and outside the sector pertaining to the commitment of other crimes (drug trafficking, arms trafficking,...)". [24: 275]. The Belgium report does not conclude that 'organised crime' has worked its way into the diamond world, but it does point out structural weaknesses that make this sector vulnerable to criminal interference. One must add that the Belgium report was written at a time when the diamond sector only had made a start with the implementing of AML measures and that there are no public reports known to the author evaluating progress in this respect. AML measurements, if properly implemented and effectuated, are likely to decrease the vulnerability to abuse by criminals and money launderers.

In a similar vain (but based on less extensive research of one particular 'sweet spot' such as Antwerp) Passas and Jones conclude that the diamond industry as a whole is vulnerable to any type of illegal activity. However, referring to the notion of trade based money laundering, they add that non-transparency—as one of the main causes for this vulnerability—is not confined to the diamond industry but constitutes a more general concern for all trade in high-value commodities [21].

In its 2002 report on organised crime in the Netherlands, the Center of Research and Documentation reports a (police) case in which a Belgian jeweller has been found guilty of money laundering by making large cash deposits pretended to be related to diamond transactions. The transactions were not real nor did the diamonds actually exist, but the cash deposits did not draw the attention since they fitted in the overall pattern of the jeweller's banking history and were not much different from that of other jewellers who were not involved in such money laundering schemes. The jeweller got a commission from the criminals, to whom he returned only part of the value.

The FATF Typologies Report of February 2002 is the first in this report series to mention diamond smuggling as potential problem area in relation to money laundering. The diamond market is more extensively discussed in the following Typologies report, issued 12 months later. The report mentions that "[s]everal FATF members indicated [...] that they had concrete cases of criminal use of the diamond trade for money laundering.

In one case, for example, a bank had blocked the account and filed a SAR with regard to transactions of, what later appeared, to be a fraudster attempting to launder his proceeds via a number of jewellers by attempting to channel large sums to them, amounting to a total value of USD 8.2 million" (FATF Typologies Report 2002–2003: 26). Another case mentioned by the FATF "[...] relates to a company with its registered office in an offshore centre, whose corporate object was especially broad and which, in particular encompassed diamond trading. The account that this company held in country Y formed the object of numerous international funds transfers in foreign currencies originating in a tax haven. The funds, in very large sums, were then systematically and immediately withdrawn in cash. These withdrawals were made in large denominations of foreign currencies by a third party, who was a director of companies active in diamond trading. In view of the regularity of some of these operations, it was difficult to associate them with any legal commercial activity in the diamond sector, where one would expect the level of the funds generated to fluctuate. From information gathered by the FIU, it appeared that this account was used as a channelling account with the aim of hampering any investigations into the origin and ultimate destination of funds." [19: 122].

A few things can be learned from this case description. The criminal origin of the funds is implied, but not explicitly stated. Could there still be plausible alternative explanations for these 'irregular' money flows? Of more relevance, is the observation that the detection of suspicious transactions results from the combination of vigilant account management and carelessness on the side of the alleged money launderers. The file does not say by whom the activity was reported to the FIU; it could be the account manager of the bank of the one or more of the involved accounts. It says that possibly the money flows would not have been recognised as potentially relating to money laundering if the suspects would have used a regular pattern in the transfers and withdrawals. In terms of our haystack metaphor: the needles stuck out against the background of the haystack, because they all the same and not resembled the natural variations of real straws. On the other hand regular cash withdrawals, especially in combination with regular transfers from or to designated tax havens, do ring the alarm bells in any self-respecting bank. The jeweller involved will then be questioned about the background of these unusual financial activities and he would have to come up with a very plausible explanation in order to prevent the bank from filing a SAR with the applicable FIU.[7]

Alluvial mining fields and their inherent ML risks

It is estimated that up to 15% of the world's rough diamonds come from informal digging activities.[8]

[7] Questioning the jeweller would not imply a breach of the prohibition to tipping-off the client, as long as he will not be informed about the precise reasons for the inquiry nor the fact that a SAR will be filed with the applicable FIU.

[8] "Taking Shine off Diamonds; Professor Alyson Warhurst, of Warwick Business School Assesses the Diamond Mining Industry Newspaper article; The Birmingham Post (England), January 20, 2007."

From a money laundering and terrorism financing perspective, the way alluvial mining is currently organised, provides for a very benevolent environment, and it does so in multiple ways. Alluvial mining, also called 'artisanal mining' in countries such as Liberia, Sierra Leone and Angola can be labelled as practices of modern slavery in which economic dependencies are shaped in the form of debt-bonding by which the stronger exploit the weaker. [8, 17, 29]. What is more important, is that the alluvial mining sector is cash based, which provides for a grey economy prone to smuggling, laundering and secret meetings with terrorism financiers and arms dealers and the circumventing of the Kimberly Certification Process (see below) by 'changing' the origin of the smuggled diamonds. Many active dealers are not licensed, but still able to run their business, e.g. on the basis of bribes paid to the local war lord or a corrupt law enforcement representative, which makes them prone to be involved in any kind of illicit activity by their benetor. The dividing line between the white, grey and black markets is blurred by all conceivable grey shades (see also [8].

The layered structure of the alluvial mining business—characterized by a delta of interdependencies from the lowest ranks of the actual workers to the higher ranks of the dealers—provides for multiple incentives to smuggle diamonds outside the formal paths resulting in significant underground trade. The following are mentioned by Even-Zohar [8: 131]:

- avoidance of (artificial) low pricing on grey and black markets
- in response to inequities in resource distribution: the licensed miner may bypass his supporting dealer and get a better price for his stones by smuggling them and trading them on his own account
- money laundering
- other criminal activity
- evasion of taxes and fees levied by the state authorities
- opportunity to earn on exchange rate fluctuations

Although the risk of money laundering is generally acknowledged, it is not the primary driver for underground trading. The socio-economic conditions and the many injustices in the system, especially for those positioned at the lower levels of the chain (miners and dealers), explain for the major part of the black and grey alluvial mining economy. Money laundering and terrorist financing most probably play only a marginal role.

Widening the focus, one may observe that most of the diamond money is not made in the mining areas but in the cutting centres. "Few know that diamonds are India's highest value export and the industry employs more than one million people" and that India's 2005 export of cut and polished diamonds was estimated at $11,2 billion.[9] Whereas the transparency of the Indian business sector in general is a topic of controversy—the Indian economy is rich of practices which from a typical Western point of view are regarded as corrupt—one can imagine the risks of diamond related money laundering in this country alone, let alone world wide.

[9] Taking Shine off Diamonds; Professor Alyson Warhurst, of Warwick Business School Assesses the Diamond Mining Industry Newspaper article; The Birmingham Post (England), January 20, 2007.

Global standards in combating ML and TF

The diamond industry has been brought within the perimeter of international AML and CFT standards in the period 2001–2006. In this period the FATF issued the second revision of the 40+9 recommendations (published on 22 June 2003), which in Europe was duly followed by the Third Money Laundering Directive (2005/60/EC). FATF Directive 12 distinguishes 'dealers in precious stones' as one of the designated non-financial businesses to which Recommendations 5, 6, 8 and 11 apply. These recommendations boil down to the very basics of AML: no anonymous accounts should be kept; customer due diligence will be performed, including proper identifications of the ultimate beneficial owner(s); additional risk management must be in place to identify and perform diligence on Politically Exposed Persons; the jeweler should within the margins of reasonability keep pace with new money laundering techniques and have in place risk mitigating measures; unusually large or unusual transactions should be monitored. Recommendation 13, in addition, obliges the jeweller to submit a suspicious or unusual transaction report to the FIU if the transaction is unusual or potentially related to money laundering or terrorism financing. The inclusion of the dealers in precious stones in scope of application of these Recommendations, implicitly acknowledges the jeweller as a 'financial institution' in terms of the FATF recommendations. This does not mean that according to the FATF the diamond brokers and retailers provide financial services, but simply that most of the AML and CFT regulations are equally applicable to those dealing in precious stones. Dealers in precious stones are explicitly referred to as one of the 'Designated non-financial businesses and professions'.

However, there is a catch. Recommendations 12 and 13 concern only those dealers in precious stones 'when they engage in any cash transaction with customers equal to or above the applicable designated threshold'. The 'designated threshold' is currently set to $/€15.000. At face value this is an odd limitation of the scope of the Recommendations. Although the diamond sector is ruled by informal protocols, this does not mean that transactions are often cash payments. On the contrary! The exoneration clause, therefore, seems to exclude the major part of the regular diamond trading companies. Was this really intended by the FATF? When the FATF's recommendations are taken literally then a diamond trading company should have a complete AML system in place when cash payments of above €15.000 are accepted or that it is likely that these will be accepted in the near future. It seems that the FATF did not want to bother the diamond sector too much with the fight against money laundering. The FATF's approach is in line with the fact that the primary money laundering and terrorism financing worries concern the cash based trade in rough stones. The local mining companies and those involved in the alluvial mining industry actually are the more likely 'suspects' when it comes to money laundering (especially in the broad interpretation of this term in most legal systems, which encompasses the mere smuggling of money or other value bearers). They are also are more likely to handle cash as part of common business practice.

Nevertheless, the FATF's limitation to cash based trading in precious stones seems at odds with the main drivers behind the FATF efforts to combat money laundering: the prevention of money laundering and the safeguarding of the integrity of the financial system. Granted, the diamond sector as such is not considered part of the financial system in a strict sense, but that does not mean that the integrity of the diamonds sector by itself is not something worth pursuing. In addition one can argue that the diamond and the financial sector are entwined, given the high degree to which diamond trading is actually financed by loans from banks. In addition, referring to what has been observed above about the difficulty to objectively determine a diamond's value and to the inward-looking nature of the diamond sector, the diamond trade is highly vulnerable to money laundering.[10] It was the FATF itself that has presented cases reported by its member countries which show that the involvement of the diamond sector in money laundering and terrorism financing is not limited to the cash-based part of the diamond trade, but extends to the myriad of (seemingly) respectable diamond trading firms whose multi millions of wire transfers annually provide for the perfect hiding place of transfers related to crime or terrorism. The shift of focus by the FATF experts towards the phenomenon of so-called trade based money laundering makes it rather incomprehensible if the FATF would not extend the scope of the Recommendations to the entire diamond sector.

It must be noted that under the current Belgian Anti-Money Laundering Law of March 22, 1993 (as amended on January 12, 2004) cash transactions are outright forbidden. Here also it is uncertain what motivated the Belgian legislator to create such a rigid rule. As no other country has the same provision the Belgian law has provided its own diamond traders with a competitive handicap.

The Third EU Directive contains provisions in line with the FATF Recommendations, such as article 18: "Dealers in high-value goods, such as precious stones or metals, or works of art, and auctioneers are in any event covered by this Directive to the extent that payments to them are made in cash in an amount of €15.000 or more." Also here the scope of the AML regulation, to the extent dealers in precious stones are concerned, is limited to cash transactions. By the end of 2007 the EU Member States had implemented the Third Directive into their national legislation [23].

Regardless of what interpretation one adheres to with regard to the Recommendations, the diamond sector itself has acknowledged the importance of compliance with AML standards. It was the erstwhile chairman of De Beers, Nicky Oppenheimer, who (in what is believed to be his briefest key note ever) was the first to openly acknowledge this and to proclaim that De Beers wholeheartedly embraces the AML and CTF standards as promoted by the FATF [8: 13]. This may well be a strategic move, motivated by self-preservation rather than anything else. But that does not matter at all. It also shows the keen wits of Oppenheimer, who may have understood and foreseen very well the future importance of compliance as part of a broader ethically-coloured notion of sustainability and corporate citizenship. He was right to see that these broader social developments were not confined to the financial sector, but would encompass all types of businesses. The next question is, what has the diamond sector done to become compliant and to prevent money laundering and terrorism financing?

[10] Although it must be observed that by the same token, it is difficult for outsiders to penetrate the sector and abuse it for money laundering purposes.

Kimberley process

Whereas the FATF primarily seeks to mend loopholes in the regulatory system to the extent these relate specifically to money laundering and terrorist financing, the international diamond trade is vulnerable to other crimes than only these two. Especially the use of 'blood' diamonds to finance military activity in armed conflict, poses a serious threat to the diamond sector as a whole. Basically the underlying though is quite similar. The anti-money laundering regime and contra-terrorism financing provisions aim to protect the integrity of the financial system as a whole and to avoid 'contamination' by 'dirty' money as much as possible. In the same line of thought the diamond sector has much to gain from avoiding contamination of the sector by 'blood' diamonds. Since November 2002 this got its shape in the form of the Kimberly Process Certification Scheme. The Kimberly Process, named after the city in South Africa where it was initiated, is an inter-governmental initiative to curb abuse of the regular diamond industry by warlords and other beneficiaries involved in the trade of 'blood' diamonds. The participants to the Process have initiated and implemented a certification scheme which ensures that all diamonds traded are provided with documentation authenticating their provenance. The parties involved[11] agree to exchange diamonds with Kimberley Process nations only and to provide confirmation (by a Kimberley Certificate) that their diamonds have not been used to fund illegal groups. The Kimberly Process is strongly supported by the UN General Assembly (A/RES/55/56 2001) and the UM Security Council (Resolution 1459, 2003).

Implementation of AML and CFT by the diamond sector

As mentioned before, the Kimberly process primarily seeks to remedy the lack of transparency with regard to the origin of the stones. From the very beginning the effectiveness of the Kimberley Agreement has been questioned, primarily because of the lack of proper controls and the possibility of blood diamonds being smuggled to neighbouring countries which serve as a 'legitimate' provenance [11]; diamonds can be 'laundered' as well. The focus on conflict areas has invoked the criticism that the Kimberley Process overlooks the bad conditions in non-conflict and post-conflict mining area's [29].

Even if the certification system would function optimally, then there is no guarantee that the certified stones will not become part of a money laundering or terrorism financing scheme [12]. In addition the Kimberly Certification Scheme was not effectively implemented in the diamond industry. A survey by Amnesty International and Global Witness pointed out that awareness of staff or retailers seem to be lacking and the majority of diamond traders either had no policy in place or were unwilling to

[11] Angola, Armenia, Australia, Bangladesh, Belarus, Botswana, Brazil, Canada, Central African Republic, People's Republic of China, Democratic Republic of the Congo, Cote d'Ivoire, Croatia, European Union States, Ghana, Guinea, Guyana, India, Indonesia, Israel, Japan, Republic of Korea, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Malaysia, Mauritius, Namibia, Norway, New Zealand, Russian Federation, Singapore, Sierra Leone, South Africa, Sri Lanka, Switzerland, Tanzania, Thailand, Togo, Ukraine, United Arab Emirates, United States of America, Venezuela, Vietnam, Zimbabwe, Taiwan

cooperate with the survey.[12] The report holds the branch organisations—the World Diamond Council, the World Federation of Diamond Bourses and the International Diamond Manufacturers Association—who have publicly committed themselves to the Kimberley Process responsible for not properly implementing and monitoring compliance with the Kimberley agreement [1].

But the fault is not only to the diamond sector: the authorities of the states who have signed the Kimberley Agreement admit they are not capable to prevent abuse of the system. In its 2002 report the US General Accounting Office states that "The United States cannot detect diamonds that might come from conflict sources because the current diamond control system does not require certification of the country of extraction." [12: 2]. The weak spot of the Kimberley certification mechanism is that it sees to the certification of the country of provenance rather than actual origin of the precious stones.

As has been pointed out by others [8, 29] proper certification does not prevent diamonds being bought with money obtained from criminal activities and it certainly does not prevent the stones from being bought and sold by terrorism financiers. The certificates do not contain an up-to-date list of those through whose hands the precious stones have passed. It does, therefore, not provide an extra paper trail that might be an extra obstacle for money launderers. This has been acknowledged by the diamond sector as well and it does certainly not rely on the Kimberly Certification as a pre-emptive anti-money laundering measure. The main diamond traders have, to a more or lesser extend, implemented international standards as laid down in the FATF's 40+9 recommendations.[13] A key role was, and still is played, by De Beers, who used the powerful position of its Diamond Trading Center (DTC) to force their clients, the so-called sight-holders, to become compliant too. By now the major diamond traders have adopted Compliance policies and programs to implement AML and CFT provisions and to be able to comply with the Kimberley Agreement. As De Beers—through the DTC—is accustomed to simply prescribe its clients the conditions under which they may supply, it may be expected that the De Beers commitment to the AML regulatory framework is more than just lip service.

In the United Sates the Jewelers Vigilance Committee has issued a country-wide applicable comprehensive 'AML Program Compliance Kit' at the beginning of 2006. The Compliance Kit contains a recommendation that jewellery traders perform due diligence on third parties as well. Whereas on the one hand the relevant clause seems to acknowledge the fact that in this type of trade third party involvement is not uncommon and certainly not suspicious by implication, it also seeks to cover

[12] In the American Jewellers trade association Jewellers of America sent out the advisory statement: "it is imperative to respond promptly to questions from NGOs, media, or consumers about conflict diamonds, as well as other social, ethical, and environmental issues, should they be asked".

[13] A source close to the author disclosed that the Antwerp Diamond sector was rather slow to realize that a Belgium report critical of the diamond sector could be used to the benefit of the branch's good reputation. Strong efforts by the sector's main players to prevent publication of the report—a vulnerability analysis of criminologist of the University of Ghent—were, at last converted into a public embracement of the report culminating in an implicit pseudo-claim of intellectual ownership of the report. The branch showed that it realised that allowing this type of 'educated' (self)criticism is a first and required step in demonstrating the willingness and ability to become compliant with international standards.

potential loopholes in compliance as a result of deliberate use of third parties to circumvent ‘standard’ due diligence of ‘first’ parties. Of course it remains to be seen how the diamond traders will pick up on this recommendation. The impact of the US legislation in combination with this Compliance Kit will be significant: almost 100% of the polished diamonds, at some point in their existence, passes through the US [7]. Other large diamond trading companies followed the example set by the Beers and implemented policies that commit the company to adherence to AML, CFT and the Kimberley Certification scheme. Although no evidence has been included in this study that these companies keep true to their word, the policies look fairly robust and give the impression that, at least to some extent, the AML wind of change affects the way diamond business in conducted by established market players.

Who will supervise the diamond sector?

In the diamond sector several entities emerged or presented itself as key contributors to the self-regulation of the sector: the World Diamond Council, Jewelers of America, the Jewelers Vigilance Committee, the International Diamond Manufacturers Association, etcetera. The progress made by the diamond sector and on the legislative front, although very important as a start, may simply fall short if compliance is not enforced by a strong regulator [14].[14]

Self-regulation and top-down statutory regulation often suffer from the same deficit: neither are strong enough to enforce compliance. It is a widely known fact that, the AML regulatory framework—in general—can only be successful in case of a strong commitment of the legislator to establish a strong regulatory body. Most Western countries have appointed one or more regulators and assigned them effective regulatory powers. For the financial sector often the National Banks have been given the task of monitoring compliance with AML and CTF regulations. The efficacy of oversight may well be grounded in the fact that AML compliance is merely part and parcel of a more encompassing relationship between the regulator and the financial institutions. Not only the mere ability to—as an ultimate recourse—withdraw a banking licence, but also specialist knowledge within the regulator of the banking sector is a core ingredient of effective supervision.

It is yet unsure how this will turn out for the diamond sector. Countries have only made a first start with enacting and implementing provisions that seek to make the diamond sector AML compliant. In the Netherlands, for example, the Bureau for Financial Supervision (*Bureau Financieel Toezicht*) has been appointed regulator for the trade in precious stones. It is the same body that also monitors AML compliance for accountants, attorneys, bankruptcy liquidators, providers of financial advice, to name only a few professions. It is obvious that quite different specialisms are required within a supervisory bureau that has to regulate such different activities. The primary task for such a regulator is to verify whether the diamond traders have implemented risk assessment procedures and policies that are deemed sufficiently effective in detecting potential money laundering activity and, thus, serve to protect

[14] Similar conclusions have been drawn with regard to the real estate sector [6].

the company from being abused. However, setting up a framework that looks good on paper, is something quite different than the actual implementation of a effective protective filter against money laundering activity. This is even more true for the diamond sector: due to its very nature and inherent opacity, the diamond sector is prone to money laundering and it will be difficult for any regulator that is not deeply familiar with the business, to see whether AML provisions suffice or whether they lack strength. However, there might be some light at the horizon in the form of diamond trade financiers acting as 'surrogate' regulators. The question is to what extent banks are willing *and* capable of doing the job.

Implementation by the diamond sector financiers

A relatively large proportion of the diamond sector activities is financed by external capital [27]. In 2001 De Ruyver cs. observes that on average the solvability of the diamond trading firms is roughly ten times lower than the solvability of other wholesale companies [24: 50]. This increases the credit risk for the financier. In addition, the credit is not provided on the basis of available stock, but mostly on supplies 'on the move'. Table 1 shows the amount financed by way of credits provided by banks in absolute figures (in the diamond sector the US Dollar accepted as the key currency).

Traders of precious stones have formally been included in AML regulatory frameworks since approximately 2006, by recognizing them as non-financial businesses to which the AML provisions apply. Banks, however, were brought under the scope of AML regulation much earlier, namely from the moment the FATF issued its 40 recommendations in April 1990, and after these were implemented in national regulatory frameworks. This means that banks, as financial institutions, have a much longer history in AML compliance than the diamond traders, who in this respect are still the 'new kids on the block'. Indirectly AML provisions were already applied to the diamond traders in their capacity as clients of banks and other financial service providers. Banks nowadays have implemented complex processes to ensure compliance. Most banks, for example, perform a background check on new clients and the nationality or main location of the client is included as one parameter in the due diligence survey. Most banks identify conflict countries and conflict diamond countries as posing a higher risk on clients conducting business in or with these countries. Such client will either be refused or additional due diligence and more stringent monitoring is applied. Some banks also assess the risk of the

Table 1 Global diamond industry banking indeptness in Ml. US dollars

	1999	2003	2004	2005
Antwerp	1.920	2.390	2.550	2.900
Mumbai	1.430	2.800	2.900	4.000
Tel Aviv	1.060	1.700	2.000	2.045
New York	1.300	1.800	1.850	2.000
Total	5.710	8.690	9.300	10.945

Source: ABN AMRO

business sector a client is primarily active in and the diamond sector may therefore as a whole be considered to adding to the risk in the profile of a client.

The question can be raised whether the widening of the scope of AML and the inclusion of the diamond sector in the application AML provisions by the FATF and legislative bodies has brought a shift in the division of labour and responsibilities in the relation between diamond traders and their financial service providers. Formally this is, of course, not the case. The new responsibilities of the diamond traders (if they apply) do not derogate to the existing responsibilities of the financial service providers: they are still gatekeepers and expected to do their part in protecting the financial system. However, extending AML regulations to diamond traders does, in a metaphorical sense, create an extra gate that, if it functions well, serves as an extra filter. Banks are in a way of speaking 'released' from the first line of defence and have become the second line of defence. In practical terms the difference between the 'old' and the 'new' situation is much more complex. Before diamond traders were included in the AML regulatory framework, the provisions reached as far as the *clients of the banks*—no further. Now the diamond industry has vowed to be(come) compliant as well, the provisions will reach as far the *clients of the diamond traders*. The difference is that respected and 'clean' diamond traders in the past could benefit from business relationships with partners who would not survive a properly executed due diligence review. To a certain extent, banks could 'hide' behind the due diligence outcome with regard to their reputable diamond clients and refrain from investigating the business partners of these. Banks could trust on the obligation by the diamond traders to report any irregularities in the dealings of the diamond trader with his own business partners. However, there was no formal framework that further detailed this 'obligation' and much depended on the sincerity of the client or the with of the bank's account manager. In a manner of speaking, since long informal due diligence, embedded in mutual trust, had been part and parcel of the way business was conducted in the diamond sector.

In many ways the wind of change also affects the relation between bank and diamond trader. Now the diamond sector has pledged compliance with AML regulations—which enables us to leave aside the cash-related 'scope of application'-matter as discussed above—banks are able to include audit provisions in their contractual agreements. Banks demand from their clients to conduct business in a legitimate way (as they have to under their own AML obligations) and are now able to support for this demand by conducting actual audits with their diamond trading clients. If they do, the diamond trader has to provide insight in how due diligence and transaction monitoring and suspicious activity reporting is implemented and integrated with daily business. How are risks related to clients or potential clients assessed? What processes are in place? How is internally monitored that these processes are properly applied, et cetera? In fact, the financial service provider may thus assume the role of supervisor/regulator in his dealings with diamond traders. Now, why would the financial service provider want this?

The answer to that question is relatively simple. Market players both in the diamond sector and in the financial sector heavily depend on their good reputation, as has been widely acknowledged [8, 18]. The concern for the good reputation and the acknowledgement of the vulnerability of a good name (which comes by foot and goes by horse, as the expression goes) forms the very basis of any sector specific compliance policy.

As mentioned earlier, some banks classify all parties connected to the diamond trade as increased risk clients. This means that additional due diligence is performed and, in special cases, that transactions are more closely monitored. The implication is that on top of minimal standards adhered to by the bank (and internally imposed on its staff) the bank has additional control mechanisms and safeguards in place to mitigate potential money laundering risks, which are considered inherent to the diamond trade. In other words, on top of standard business due diligence *enhanced* due diligence is performed, by default. Interestingly, some banks use positive referencing as a component of their enhanced due diligence process. This feature, which is quite unique in modern day banking, is reminiscent of the 'old times' of the diamond sector, in which cross-referencing formed the basis of the system of mutual trust from one insider to another.

In the global AML framework a shift has taken place from a rule based to a risk based system, in which the major financial institutions have been accredited much more discretionary power in their decision whether to file a SAR report [4, 5]. In a much wider context this shift has initiated a more general rethinking in risk management in the financial world. Under the Basel II agreements financial institutions are stimulated (or actually compelled) to take into account a much broader and more diversified risk picture, which does not only include capital and credit risks (as under the Basel I accord) but virtually all risks that might eventually jeopardise a bank's soundness.

Under Basel II banks that have diamond companies in their credit portfolios already have demonstrated that 'the old rules' of lending to diamond trading firms do not apply any more. Credit will no longer be provided solely on the ground of a long standing good relationship. Instead the assets and activities that are to be financed by the loan are assessed and valued by the banks with much more accuracy than before. Assets that have been overvalued in the past, will no longer qualify for refinancing. Banks have not only obtained a much stronger position (relative to the diamond sector) than before, they are actually prepared to wield their power to set new boundaries and to impose new rules for lending [7]. The times in which a gap existed between diamond sector related financial practices and benchmark risk appetite and risk acceptance as applied by banks to other industries, seem to have come to an end. After the 2008 credit crunch and the financial crisis—which have made Basel II more relevant than ever—banks will be even more cautious and refuse any credit facility that is not guaranteed by properly assessed and sufficiently valued collateral. One important element of these developments is that it will, hopefully, drive to more transparency throughout the diamond sector. The main diamond financing banks have become a strong antagonist to De Beers and if banks will consistently bring into practice their new principles, then this will seriously affect the De Beers monopoly with regard to the sight-holder system [7]. In the context of money laundering, in a much similar vain to Basel II, the focus has shifted towards a broader notion of suspicious or unusual activity, such as is included in the notion of trade based money laundering [9]. Consequentially, it seems that the financial institutions, as gate keepers, have to embrace a less formal and therefore broader notion of the Know Your Customer (KYC) principle. Under the rule-based approach the emphasis was merely on the proper identification of the client by checking the ID documents, and the identification of unusual transactions by way of checking these against objective criteria. To an increasing extent it is expected from the financial service providers that their account managers and relationship bankers are also aware of standard behaviour in the industry the client is or claims to be active in. That is, the account manager must be able to compare the pattern of services commissioned by the client against the background of patterns common in the clients business sector. A client's transaction history has to stay within a range of what is normally to be expected from such a client in such a branch, otherwise questions will be posed. This is not yet current practice, at least not in full. However a gradual trend towards this direction can be observed, mainly fanned by the FATF and picked up by the regulators. Major banks already have included in their policies provisions that, at the very least, aim to create awareness among relationship bankers and account managers of their newly perceived roles.

It is an issue of debate whether the financial service providers are or should be happy with this trend, since it will bring a huge change in the (key) role of relationship bankers and account managers. However, for the often highly specialized diamond branches, this might give fewer problems than for other less specialized branched. As relationship bankers they are already specialized to a high degree and they know what is going on in their clients market in terms of commercial activity and developments. This gives good prospects for this particular branch in banking to become even more compliant with domestic and international regulatory frameworks. Diamond financiers may be up to the challenge posed by progressive, risk-based money laundering policies.

However, there is also an inescapable tension between the relationships banker tasks as a 'gatekeeper' and the profit-driven nature of his core-business: providing banking services. In practice this will mean that whatever room for interpretation there is, the relationship banker—and also back office support e.g. from the in-house legal and AML departments—will opt for the most convenient interpretation. Here the responsibility of the bank ends and the responsibility for the supervisor, regulator and/or legislator starts. Ultimately the financial service provider can not be held responsible for all that is wrong in the world of diamond trading and financing.

Has the diamond sector become more transparent?

The real question is whether the diamond industry has become more transparent as a result of the developments in the past decades. This question cannot be answered with a simple yes or no.

First one must distinguish between different spheres of transparency. Transparency comes in many forms and shapes, as is illustrated by a quote from an interview[15] with the managing director of the High Council for Diamonds, Freddy Hanard. He stated that his organisation 'needs to be completely transparent and accountable', but as it appears, this merely refers to the 'democratic' governance structure of the High Council and not necessarily to the transparency in terms of AML and CFT.

Nevertheless the question can be raised whether the diamond sector has become more transparent internally, that is towards the key players, other players and newcomers in and to the sector. Has the diamond sector become more transparent towards the financiers

[15] Antwerp facets Magazine, Volume 3, Edition 3, July 2006.

of the diamond traders? Have the financiers become more transparent, e.g. towards the regulator? Finally, have both the diamond sector and the financing of diamonds become more transparent towards the public in broad? Even if these questions are answered positively one can also ask whether an increase in (overall) transparency has made the ‘upper world’ diamond sector more secure and less involved in (alleged) criminal activity, money laundering, terrorism financing and the trading of conflict diamonds.

Whether the diamond sector has become more transparent internally is a complex issue and not easily to answer. The exclusion of outsiders does not automatically imply that the sector is internally opaque. Rather on the opposite: when trust and trusted reference are key notions in bilateral engagements, then a ‘closed’ circuit and ‘exclusive membership’ make the branch internally more transparent compared to the situation that the market has a low threshold and outsiders are easily invited to join the trade. On the other hand, the very notion of trust stands in the way of objective scrutiny by the trading partners: ignoring ‘the word of a friend’—that is, performing further due diligence—is considered inapt, a token of lack of trust. On the other hand: violating trust can have far reaching social and commercial repercussions.

However, changes have been brought to the diamond sector also from the outside, namely from the well regulated financial service providers that service the diamond industry. Developments in the context of Basel II and, in addition, the 2008 financial crisis, have triggered banks to reconsider existing practices with regard to the financing of diamond related activities. This is expected to bring increased transparency, albeit within the parameters of the often undisclosed relationship between the diamond companies and their financiers.

Despite the effort of many countries legislator’s to bring dealers in precious stones under the umbrella of AML controls, external transparency is still not achieved to a satisfying extent. In part this is due to the lack of a dedicated regulator, a governmental watch dog equipped with sufficient powers to enforce compliance. On the other hand, it seems that the commitment of the diamond sector to international AML standards and the self-commitment as shown in the Kimberly-process, although not yet to the whole nine yards, has brought a ‘wind of change’, also in terms of transparency. Even-Zohar who might be considered an expert in his field, is rather positive, in particular about the developments in the US: “From now one, no one will ever be able to claim that our business isn’t sufficient transparent, that its supply chain is opaque, or that there are unknown players. From a business perspective—and forgive me for these words—it seems that we are now engaged in a massive and collective “striptease”—soon we will know almost everything about everybody. And we must keep the information on file for anywhere between 5 to 7 years, depending on the jurisdiction.”

The question is whether all diamond traders, or at least the large majority, will fully comply with the rules and, even if so, whether formal compliance with the law and international standards will indeed prevent the diamond sector from being affected by money laundering, terrorist financing and the trading of conflict diamonds. This question, however, brings us into a entirely different theme: whether current AML and CFT ‘best practices’ are indeed contributing to decreasing money laundering and terrorist financing or effectively keep the financial system and the upper world economy clean from tainted money. This is a theme that we will not further explore here.

Overall we must conclude that, with the inclusion of the trade in precious stones under the umbrella of AML thinking, a new course has been set out which gradually seems to force at least the bigger market players to become more vigilant, more transparent and more compliant with international AML standards. To what extent this development will truly bring a change, the future will tell.

References

1. Amnesty International and Global Witness, Déjà Vu. (2004). Diamond industry still failing to deliver on promises. Amnesty International and Global Witness
2. van de Bunt, H. (2002). Diamanten—whose best friend? (transl.: Diamonds—whose best friend?). *Tijdschrift voor Criminologie*, *44*(4), 319–327.
3. Dietrich, Chr. (1999). Power struggles in the diamond fields. Available at http://www.iss.co.za/Pubs/BOOKS/Angola/9Dietrich.pdf. Accessed on 19 November 2008.
4. Van Dijck, M. (2007). The link between the financing of terrorism and cigarette smuggling. What Evidence is there? Graz HUMSEC Journal, *1*(1), (www.humsec.eu/cms/fileadmin/user_upload / humsec/ Journal/van_Dijck_Cigarette_Smuggling.pdf)].
5. Van Dijck, M. (2008). Shifting responsibilities in the fight against money laundering and terrorism financing from a bank's perspective. In P. C. van Duyne, J. Harvey, A. Maljevic, K. von Lampe, M. Scheinost (Eds.), *European crime-markets at cross-roads. Extended and extending criminal Europe*. Nijmegen: Wolf Legal.
6. Eichholtz, P. (2006). Een AFM voor de vastgoedmarkt [transl. A regulator for the real estate sector]. *Justitiele Verkenningen (Themanummer Witwassen)*, *32*(2), 67–75.
7. Even-Zohar, C. (2006). Banking concerns about client profitability, diamond intelligence briefs, *21* (472), 4064.
8. Even-Zohar, C. (2004). *Diamond industry strategies to combat money laundering and the financing of terrorism*. Amsterdam: ABN AMRO Bank NV.
9. FATF. (2006). Trade Based Money Laundering, Financial Action task Force, (www.fatf-gafi.org/dataoecd/60/25/37038272.pdf).
10. Fijnaut, C. J. C. F., Bovenkerk, F., Bruinsma, G. J. N., & van de Bunt, H. G. (1996). *Eindrapport georganiseerde criminaliteit in Nederland (TK 1995-1996, 24072, nr. 16)* (transl.: Final Report Organised Crime in the Netherlands). Den Haag: Sdu uitgevers.
11. Fleshman, M. (2001). 'Conflict diamonds' evade UN sanction, 2001. *Africa Recovery*, *15*(4), 15 December.
12. GAO (United States General Accounting Office). (2002). International trade. Critical Issues Remain in Deterring Conflict Diamond Trade. Report to Congressional Requestors. June.
13. Global Witness. (2003). For a few Dollar$ more. Global Witness.
14. Global Witness. (2006). The US diamond sector.
15. Goredema, C. (2002). Diamonds and other precious stones in armed conflicts and law enforcement co-operation in Southern Africa, 57, ISS, pp. 11 (www.issafrica.org/index.php?link_id=3&slink_id=620&link_type=12&slink_type=12&tmpl_id=3).
16. Goredema, C. (2005). Organised crime and terrorism: observations from Southern Africa, 101, ISS, pp. 8 (www.iss.co.za/dynamic/administration/ file_manager/file_links/PAPER101.PDF?link_id=&slink_id=455&link_type=12&slink_type=23&tmpl_id=3).
17. Goreux, L. (2001). Conflict Diamonds, Africa Region Working Paper Series No. 13, March 2001. Available at http://www.worldbank.org/afr/wps/wp13.pdf. Accessed on November 19, 2008.
18. Harvey, J. (2005). Controlling the flow of money or satisfying the regulators? In P. C. van Duyne, K. von Lampe, M. van Dijck, & J. Newell (Eds.), *The organised crime economy* (pp. 43–64). Nijmegen: Wolf Legal.
19. Howell, J. (2006). The prevention of money laundering and terrorist financing, ICC Commercial Crime Services. Essex.
20. Passas, N. (2005). Informal value transfer systems, terrorism and money laundering—a report to the National Institute of Justice.
21. Passas, N., & Jones, K. (2006). Commodities and Terrorist Financing: Focus on Diamonds, Springer Netherlands. *European Journal on Criminal Policy and Research*, *12*(1), 1–33.
22. Poels, J., & de Agim, B. (2002). Opsporing van misdrijven inzake diamante (transl.: investigation of misdemeanours concerning diamonds). *Tijdschrift voor Criminologie*, *44*(4), 351–357.

23. Rietrae, J. (2007). The 3rd EU anti-money laundering directive. Main issues and intriguing details. In P. C. van Duyne, A. Maljevic, M. van Dijck, K. von Lampe, & J. Harvey (Eds.), *Crime business and cime money in Europe*. *The dirty linen of illicit enterprise*. Nijmegen: Wolf Legal.
24. De Ruyver, B., Vander Beken, T., & Cuyvers, L. (2001). cs., Het meten van de kwetsbaarheid van de legale economische sectoren voor georganiseerde criminaliteit (case study: de diamantsector), intern rapport Vakgroep Strafrecht en Criminologie (transl.: The measurement of the vulnerability of the legal economic sector to organised crime (case study: the diamond sector). Philadelphia: Internal report Department of Criminal Law and Criminology), Temple University Press.
25. Siegel, D. (2002). De joodse gemeenschap en de Antwerpse diamantsector in historisch perspectief (transl.: The Jewish community and the Antwerp diamond sector in historical perspective). *Tijdschrift voor Criminologie*, *44*(4), 338–350.
26. Stevens, A., & Charment, D. (2005). Commerce & conflict. Angola & DiamondWorks, The Norman Petterson School of International Affairs, Carlton university, (www.carlton.ca/cifp).
27. Stichting Onderzoek Multinationale Ondernemingen (2001). *ABN AMRO en de Diamanthandel*. (transl.: ABN AMRO and the diamond trade). Amsterdam: Nederlands Instituut voor Zuidelijk Afrika.
28. UN Panel of Experts. (2000). Final Report of the UN panel of experts on violations of the security council sanctions against unita. S/2000/203.
29. Zoelnner, T. (2006). So, should you buy a diamond? Time.