

Statement on De Beers

Introduction

De Beers was named in Annex 3 (Business enterprises considered by the Panel to be in violation of the OECD Guidelines for Multinational Enterprises) of the initial UN Expert Panel report on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of the Congo (DRC) published in October 2002.

In the final Panel report published in October 2003 De Beers was named in Category 3 (unresolved cases referred to NCP for updating or investigation).

These lists contain the names of entities that the UN Expert Panel on the DRC alleged had been in breach of the OECD Guidelines for Multinational Enterprises.

Basis of Allegations

Specifically the Panel alleged De Beers was in breach of its own Diamond Best Practice Principles, published by the Diamond Trading Company (a member of the De Beers group) in 2000 and, consequently, in breach of the OECD Guidelines. The Panel did not, however, identify which provision(s) of the OECD Guidelines for MNEs they alleged De Beers to be in breach.

The panel based its allegations on a claim that three sightholders, clients of the Diamond Trading Company (DTC) - the sales and marketing subsidiary of the De Beers Group - exported diamonds from the DRC, contributing to funding of parties involved in the conflict and that De Beers failed to monitor the compliance of these sightholders against The Diamond Trading Company's Diamond Best Practice Principles.

Co-operation with the UN Expert Panel

These specific allegations (above) were only made known to De Beers by the Panel at a meeting between the two in May 2003. Prior to that date, De Beers were completely unaware of the basis upon which the Panel alleged that it was in breach of the OECD Guidelines.

The UN Expert Panel did not contact De Beers to discuss these allegations before publishing their initial report.

After the initial report was published, De Beers wrote to the Panel in December 2002 and February 2003 requesting a meeting to discuss the report; neither letter elicited any immediate response by the Panel. However, in April 2003, the Panel invited De Beers to a meeting in May 2003, referred to above.

The Panel refused to give De Beers any details of the basis of their allegations prior to the meeting and consequently De Beers was unable to bring relevant documentation or appropriate members of staff to the meeting to address the Panel's concerns.

Following the meeting, De Beers replied in writing, addressing the specific allegations relating to the three sightholders raised by the Panel. The Panel did not reply to De Beers response nor ask De Beers for any further information and rather published its final report listing De Beers as a company that had been in breach of OECD Guidelines.

De Beers have stated their disappointment with the way this Panel conducted its affairs, particularly when they had previously enjoyed constructive relations with the United Nations, principally, in the development of the Kimberley Process Certification Scheme where their work was commended by the Secretary-General.

NCP Comment on Panel Accusations

Activities of 3 sightholders.

Based on the information which it has seen, the UK NCP is satisfied that the relationship between De Beers and the three companies named by the UN Panel is such that the activities of those three companies in the DRC, insofar as they relate to De Beers, are outside the remit of the UK National Contact Point (NCP) acting under the OECD Guidelines for Multinational Enterprises.

Breach of Best Practice Principles.

The UN Expert Panel on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo (The UN Expert Panel) alleged that De Beers breached the DTC Diamond Best Practice and, consequently, were in breach of the OECD Guidelines for MNEs. The UN Expert Panel did not specify which provisions of those Guidelines were alleged to have been breached, failed to give adequate or timely information supporting its allegations and failed to engage meaningfully in the dialogue process envisaged by the Guidelines.

In the circumstances and on the basis of the information provided, the UK NCP concludes that the allegations made by the UN Expert Panel against De Beers are unsubstantiated.