

DIAMONDS WITHOUT BORDERS:

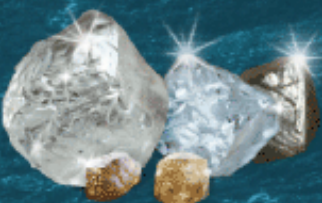
AN ASSESSMENT OF THE CHALLENGES OF IMPLEMENTING AND ENFORCING THE KIMBERLEY PROCESS CERTIFICATION SCHEME

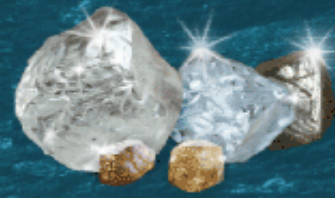
A REPORT TO THE 2010 KPCS PLENARY

**SUBMITTED BY PARTNERSHIP AFRICA CANADA AND THE
GOVERNMENTS OF CANADA AND THE UNITED STATES OF AMERICA**

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JERUSALEM





SECTION I: EXECUTIVE SUMMARY

Diamonds by their very nature present tremendous challenges to governments who wish to ensure that the extraction and trade in this natural resource contributes to national and local economic development. As a small, high-value commodity, it is easily smuggled by those who seek to avoid the formal market, whether for benign or criminal motivations. Diamonds are easy to transport, market, and evade controls at national borders. They are notoriously easy to smuggle out of producing countries, but also quite easy to import into countries that do not conform to the Kimberley Process Certification Scheme (KPCS) requirements.

Efforts to combat smuggling directly contribute to the goals of the KPCS, which seeks to stem the flow of conflict diamonds. The diamonds once used by rebel groups to finance conflicts in west and southern Africa were all mined illegally, and then smuggled onto the black market. Minimizing smuggling also shores up public finances, as diamonds going through formal channels can be taxed. Efforts to legalize diamond flows can also support economic development in diamond-mining communities, where community reinvestment programs exist.

Although the KPCS imposes extensive requirements on its members to prevent conflict diamonds from entering the legitimate trade, many countries struggle to implement these requirements, both on the side of exporting countries and on the part of importing countries. Loopholes in the design and/or implementation of internal controls allow for diamond smuggling to occur, creating an enabling environment for the reemergence of conflict diamonds.¹

Since diamond smuggling is a cross-border phenomenon, it is clear that cross-border cooperation is required both at the regional level (between countries with porous borders) and at the international level (between exporting and importing countries, who need to take more responsibility for preventing the influx of illicit diamonds into the legitimate diamond supply chain).

Recognizing the importance of strengthening efforts to address diamond smuggling, the KPCS Chair for 2010 (Boaz Hirsch) identified enforcement as a key priority for the Chairmanship of Israel. To support the Chair's efforts to make progress on the issue of diamond smuggling (in particular, efforts to keep Ivorian diamonds from entering the black market) the United States funded national dialogues on diamond smuggling in four countries—Guinea, Côte d'Ivoire, Sierra Leone and Liberia—with the technical assistance of Partnership Africa Canada and financial support of USAID's Property Rights and Artisanal Diamond Development Project (PRADD).

The purpose of the workshops, which were convened by civil society organizations in each country, was to create a space for multi-stakeholder dialogue on diamond smuggling and the Kimberley Process.² A broad and diverse range of organizations, including mine ministries, civil society, artisanal miners, union members, diamond dealers, customs and police, attended the workshops.³

Following the workshops, national profiles on diamond smuggling were created for each country and presented at the first KPCS Enforcement Seminar, held in Tel Aviv at the June 2010 KPCS Intercessional. Representatives of civil society organizations and governments from the Mano River Union

¹ Analyses of loopholes in the Kimberley Process are available on the websites of Partnership Africa Canada (www.pacweb.org) and Global Witness (www.globalwitness.org).

² See Annex I for short descriptions of the civil society partners in each country.

³ Prior to holding their one-day workshop, Green Advocates (the civil society partner in Liberia) conducted extensive consultations in Liberia's diamond-mining communities, as well as one-on-one interviews with key stakeholders.

countries were joined by police, customs and banking officials from a range of KPCS participants to discuss ways to address diamond smuggling using development, governance and enforcement solutions. Summaries of the discussion at this Enforcement Seminar, as well as the four national profiles, are presented in Sections II and III of this document.

As a result of these enforcement-related initiatives, the KPCS has an opportunity to move forward in a systematic fashion to address an issue that lies at the core of its mandate: minimizing the illicit trade in rough diamonds. Priority actions suggested by stakeholders included the following:

Multilateral Solutions

Interagency Cooperation. Interregional diamond smuggling requires region-wide responses, especially among enforcement agencies. Whatever institutional form it might take, stakeholders agreed on the importance of having some type of high-level forum that could bring together officials from key enforcement agencies in both exporting and importing countries to develop effective approaches to combat fraud, smuggling and other illegal activities around diamonds.

Working Group on Enforcement. Given the centrality of this issue to the work of the KPCS, many stakeholders suggested that the KPCS either set up a Working Group on Enforcement or ensure that enforcement issues were more regularly discussed in existing working groups.

Work Plan on Enforcement. Once partners have found a mechanism to come together for cooperation and information sharing, the KPCS should coordinate implementation of a comprehensive work plan on enforcement encompassing solutions at the local, national, regional and international levels.

Information Sharing and Trust Building. One of the first items on an Enforcement Work Plan would be creating mechanisms for enforcement agencies to share information and build trust, both within occupational groups (e.g., police officials from different countries) and across occupations (e.g., bringing customs officials and police together). Existing multilateral institutions should create spaces/networks/institutions to enhance information sharing.

Trust Fund on Enforcement. Several stakeholders noted that although the KPCS has extremely high expectations of the types of enforcement actions that African countries should undertake to prevent diamonds from being smuggled out, resources to finance enforcement activities remain scarce.

Regional Focus. Stakeholders highlighted the importance of focusing limited resources in the initial stages of developing KPCS enforcement initiatives. A focus on Côte d'Ivoire was suggested.

National Solutions

While multilateral cooperation is essential for dealing with smuggling, a number of national-level actions were highlighted as well. Three types of solutions were put forward:

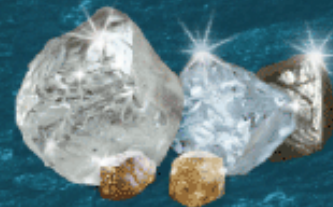
- ◆ **Development solutions** encompass ideas on how to *prevent* smuggling from occurring by dealing with issues of fairness and security from the perspective of artisanal miners. Central to these discussions were strong recommendations for governments to examine closely the prices artisanal miners receive when they participate in the formal market, and to develop and promote community reinvestment initiatives to highlight the social value of participating in the formal system.
- ◆ **Governance solutions** were also put forward for national governments to improve the oversight and accountability systems in the diamond supply chain that make it more difficult for individuals to smuggle without being caught. A recurring theme was for government officials to take a more systemic approach to monitoring the diamond supply chain by introducing more random audits and 'spot-checks' into the oversight systems set up at the national level. Stakeholders also highlighted the importance of collecting meaningful production data, and continuing to hold multi-stakeholder dialogues on KPCS issues.

- ◆ **Enforcement solutions** focus on improving the effectiveness of institutions designed to intercept diamond smugglers and bring them to justice. Numerous stakeholders emphasized the importance of improving collaboration between enforcement agencies at the national and regional levels, and providing education, training and logistical support for enforcement officials. An innovative proposal to involve community members in monitoring porous borders emerged from the Liberian workshop, as a means to compensate for limited state resources to monitor remote border areas.



Kimberley Process Enforcement Seminar Summary

June 24, 2010



SECTION II: KPCS ENFORCEMENT SEMINAR

(TEL AVIV - JULY 24, 2010)

Immediately following the Kimberley Process (KPCS) Intercessional in June 2010, a day-long seminar was held with representatives of governments, civil society, and the diamond industry to explore the complex issues surrounding fraud and diamond smuggling. Co-sponsored by the Governments of Canada and the United States, with the financial support of many organizations, the Enforcement Seminar brought together a group of actors under the KPCS banner that are rarely afforded the opportunity to meet together at KPCS meetings, particularly customs and police officials. The Enforcement Seminar created a welcome opportunity for these officials to interact with government, industry and civil society in order to exchange information and perspectives on ways to strengthen the principles and practices of KPCS enforcement measures.

The morning session consisted of two sets of panel presentations followed by breakout meetings and then a plenary wrap-up (See Annex II for the workshop agenda). Specialists from the diamond industry and customs organizations provided in-depth reviews of the nature of diamond smuggling and other associated illicit activities. Workshop participants greatly appreciated the eloquent recounting of the current diamond smuggling situation and the complexities involved in combating fraudulent trading practices. Civil society groups and multilateral organizations also provided unique and complementary perspectives on diamond smuggling.

The afternoon consisted of presentations and small group discussions focused on Kimberley Process enforcement issues in West Africa. This session built upon the extensive preparatory efforts of national delegations from West Africa and some participants sponsored by the Canadian and US governments.

For the sake of brevity, the following summary highlights the key points emerging out of the panel presentations and discussion groups. In light of the sensitivities surrounding reviews on actual smuggling cases, panelist presentations are not attached. Rather, the summaries below reflect the general views of both panelists and participants.

Summary of Panel Presentations and Discussions

The Enforcement Seminar panelist presentations described vividly the mechanisms by which illegal diamonds flow from the point of production through export channels and into importing countries for processing and eventual retailing. Specific examples of fraud and smuggling were described by some of the customs agencies present, along with advice on how to develop an enforcement strategy. Panelists also shared the views of artisanal miners themselves on the root causes of smuggling.

The major points emerging out of the discussions were:

- ◆ **Diamonds are the Most Valuable Commodities in the World.** The diamond trade brings both good and bad. Crime, corruption, and other illegal activities accompanies the generation of wealth and economic growth linked to the diamond trade.
- ◆ **Diamonds Attract Criminality.** As an extremely high-value and low-volume commodity, the diamond industry is highly susceptible to smuggling. Diamonds are easy to transport, market, and evade controls at national borders. Diamonds are notoriously easy to smuggle out of producing countries, but also quite easy to import into countries that do not conform to the Kimberley

Process certification requirements. Until now, diamonds were not among the top four or five commodities monitored by international customs bodies, despite the fact that diamonds are extremely attractive to criminals and terrorists.

- ◆ **Evolution of the Diamond Industry Contributes to New Forms of Diamond Smuggling.** The international trade in diamonds is rapidly evolving. Buying houses dominated the trade in the past, often masking true value through fraudulent invoices aimed at escaping national taxes. Lebanese family networks played a key part in the trade in producing countries. Money laundering and opportunities for fraud continue today despite restructuring of the diamond economy. New and complex smuggling techniques often surpass the monitoring capacity of enforcement agencies. Policing illegal flows of diamonds is extremely difficult because of the sophistication of the illegal diamond network, the large numbers of actors involved in the trade, and the lack of sufficient information on the flows and mechanisms of fraudulent exchanges.
- ◆ **Linkages Develop between Drug Smuggling and Illegal Diamond Exports.** A new and worrisome trend in West Africa concerns the linkage between money laundering, drug smuggling, and the diamond trade. Examples from West Africa were cited that showcase this new connection. Unfortunately, neither governments nor the diamond industry have looked at this serious issue extensively to date.
- ◆ **Weak Enforcement Persists in Exporting Countries.** The panelists and participants presented numerous examples of why measures taken to halt fraud and smuggling are so difficult to enforce in both exporting and importing countries. Representatives from Africa cited cases of why it is nearly impossible to control the flow of diamonds across porous national borders. National customs agencies are fragile, corruption is oftentimes rampant at all levels, and considerable flows of uncontrolled migration across na-

tional borders all contribute to the ineffectiveness of measures to halt diamond smuggling and fraud.

- ◆ **Interagency Cooperation in Importing Countries is Lacking.** Representatives from enforcement agencies of importing countries also noted how limited or nonexistent interagency coordination and information sharing undermines effective policing. Enforcement agencies are not well equipped to deal with the very high degree of sophistication of the criminal elements involved in the diamond industry.
- ◆ **Incentives for Fraud and Smuggling Thrive at the Point of Production.** The representatives of Diamonds for Development International (DDI) and the national dialogues on enforcement coordinated by civil society (Partnership Africa Canada, with national civil society liaisons) spelled out in considerable detail the factors contributing to weak enforcement and the drivers underlying smuggling from the perspective of artisanal miners. Few incentives at the local level assist miners to engage in the legal diamond economy. Porous and unwatched borders, unfair prices offered by government diamond buyers, high fees for official mining licenses, corrupt officials, weak prosecution for illegal activities, and harassment of artisanal miners all contribute to smuggling. The reality must not be masked—tracking diamonds from the point of production is difficult in many West and Central African countries. Clearly, existing regional approaches to combating fraud and smuggling are inadequate.

Special Session on West Africa

During the afternoon, the Enforcement Seminar included a special session on the diamond enforcement situation in West Africa. The session included a presentation summarizing the results of four workshops on diamond smuggling held in West Africa, followed by small group discussions in both French and English.

The process leading up to this session merits a short review for it illustrates the constructive working relationships that can be built between the three actors that make up the tripartite nature of the KPCS: government, civil society, and industry. This portion of the seminar emerged out of national multi-stakeholder dialogues organized in June 2010 by civil society groups in four West African countries (Sierra Leone, Guinea, Côte d'Ivoire, and Liberia) with the technical assistance of Partnership Africa Canada and financially supported by USAID's Property Rights and Artisanal Diamond Development Project (PRADD). In all countries, the day-long workshops were well attended. Highly informative and honest debates focused on the realities confronting all actors seeking to redress the weaknesses in the internal chain of custody. Prior to their national dialogue, Liberia took the additional step of sending out representatives of ministries and customs organizations to discuss with mining communities the nature of smuggling and KPCS enforcement issues encountered at the local level. The assemblies presented many concrete proposals.

The results of the national dialogues on enforcement and smuggling were presented at the outset of the afternoon session. Key findings are outlined here. More details are included in Section III below.

- ◆ **Multiple Challenges.** Participants shared a litany of concerns affecting the fight against fraud and diamond smuggling, noting the challenge of monitoring the complex pathways of diamond smuggling, money laundering, and other illicit activities across porous borders. For instance, enforcement agencies confront many obstacles in uncovering the origins of diamonds because of the well-known constraints of monitoring flows of diamonds within the commodity stream. Lack of viable enforcement measures are compounded in some countries by weak legislative frameworks; stronger legislation is needed to combat smuggling and other illicit activities. Lack of interregional cooperation to fight smuggling often inhibits national efforts to halt illegal trading activities. Partici-

pants also provided examples of how monitoring and combating illicit activities surrounding diamonds is extremely hazardous in parts of West Africa controlled by rebel groups. Peace and internal security must return as a pre-condition to any other measures designed to combat diamond smuggling.

National Solutions

- ◆ **Set Up Diamond Enforcement Squads.** Participants noted with approval the specialized diamond enforcement team in Belgium, a major cutting and polishing center. Several participants suggested that other cutting and polishing centers set up similar teams, noting that the expenditures for enforcement should not fall solely on diamond producers, but also countries that import rough diamonds for cutting and polishing purposes.
- ◆ **Address Root Causes.** There are multiple drivers underlying smuggling. Some of those drivers can be addressed by listening to the concerns of artisanal miners and addressing them fairly (e.g., providing a fair price to artisanal miners when they sell their goods to government buyers, lowering the cost of registering for mining licenses, developing meaningful community reinvestment programs that can be shown to flourish when miners sell through legal channels, etc.).
- ◆ **Involve Communities.** Governments lack the resources to monitor border crossings and artisanal diamond mining areas comprehensively. An untapped resource, however, is the local community members themselves, who (with their intimate knowledge of the people and landscape) can multiply the eyes and ears on the ground and help identify and track criminal activity. National governments were encouraged to consider community policing/community monitoring models as part of their enforcement toolbox.

Regional Solutions

- ◆ **Develop a Typology of Money Laundering.** The Francophone group suggested that research be carried out to develop a typology of money laundering around diamonds now

occurring in West Africa. The group noted the sophisticated ways in which money laundering now occurs throughout the region. Diamonds mask the flow of capital in and out of countries and financial streams are often linked to a wide array of secondary economies, like real estate or agricultural imports. A typology of the range of illicit activities around diamonds could then be used to help train customs and other enforcement agencies to better combat the problem.

- ◆ **Revise Mining Codes and Other Legislation.** It was suggested that there would be value in revising (throughout West Africa) mining codes and other texts to permit more effective responses to the new dynamics of fraud presently unfolding in the region. These texts need to be brought into conformity with the KPCS, EITI, and other international and regional obligations.

Steps taken by Brazil to Combat Fraud and Smuggling

At the end of the Enforcement Seminar session, the delegation from Brazil made a presentation on measures taken to combat fraud around the diamond industry. Initially, Brazil created a Task Force, or national forum, of government, civil society, and the diamond industry with the mission to fight fraud, but also to resolve disputes among contending parties in the economy. The Task Force allowed all parties to conduct open discussions on how to deal with the difficult issues of the day. Academics, scientists, policymakers, government, and the diamond industry all worked together to develop a common approach.

The Task Force ended up recommending the suspension of all diamond production for eight months, even in the alluvial and artisanal diamond-mining sector. Recognizing the hardships a suspension in diamond production would cause to the most vulnerable members of the supply chain, food aid was provided to artisanal miners during the interim. Permits were evaluated and reissued. A permanent coordinator for the Task Force was set up, as well as a general secretary. The tripartite institutional arrange-

ments were preserved. This successful framework has led to the development of new rules to regulate the industry, and as a side benefit, contributed to a marked decline in conflicts between different parties. Other countries might benefit from setting up similar multi-stakeholder bodies to address diamond smuggling and other KPCS implementation issues.

The Way Forward

The Kimberley Process Enforcement Seminar participants made the following recommendations.

Recommendations for the Kimberley Process

- ◆ **Kimberley Process and Enforcement.** The seminar panelists and participants acknowledged that the Kimberley Process has not taken an active role in developing strategies to address fraudulent trading practices like money laundering and corruption within enforcement agencies. While the KPCS is designed to monitor and combat fraudulent transactions, relatively few resources are addressed to the systemic issues behind the illicit trade in diamonds. Combating the complex issues raised during the Enforcement Seminar is the purvey of most KPCS working groups; however, none address the issue specifically. For this reason, new institutional arrangements within the KPCS may need to be set up.
- ◆ **Working Group on Enforcement.** Many of the participants promoted the suggestion of setting up a new Kimberley Process working group—a Working Group on Enforcement. However, others noted that these functions are already in the mandate of working groups, but ought to be a stronger focus for the Working Group on Monitoring or the Working Group of Diamond Experts. Consensus nevertheless emerged around the importance of having some type of high-level forum that brings together enforcement agencies in both exporting and importing countries to develop effective approaches to combat fraud, smuggling, and other illegal activities around diamonds.

- ◆ **Lessons Learned from the West African Enforcement Seminar Preparations.** The innovative preparations carried out by the KPCS tripartite of government, the diamond sector, and civil society in West Africa (Sierra Leone, Guinea, Côte d’Ivoire, and Liberia) illustrates the importance of multi-stakeholder cooperation and engagement for combating smuggling and other fraudulent activities. The inclusion of artisanal miner representatives in the consultative process highlighted the place local communities can play in monitoring and policing the sector. As the Brazilian case also showed, institutionalization of the tripartite relationship at the national and local levels can go a long way toward building the trust between the parties—an essential condition for Kimberley Process compliance.
- ◆ **Trust Fund on Enforcement.** Small group participants stressed the importance of creating some type of Kimberley Process trust fund designed to support efforts to combat fraud around diamond exports. Enforcement agencies are in dire need of training and capacity building, and some type of permanent funding is required to train staff in the latest ways to combat fraud. Some participants suggested that this trust fund could be financed from the sale of confiscated diamonds. The participants recognized the legal constraints of setting up this mechanism, but noted that the KPCS could advocate for changes in national laws to support the use of confiscated diamonds sales for enforcement purposes. Mention was also made of the role that the International Monetary Fund (IMF) Trust Fund on Anti-Money Laundering and Combating the Financing of Terrorism might play in contributing technical assistance and financing to strengthen enforcement measures (see below).
- ◆ **Work Plan on Enforcement.** Some type of strategy or work plan needs to be developed to turn ideas into action. For instance, identified enforcement issues, like the Administrative Decision of November 6, 2009 regarding recommendations to improve Guinea’s compliance with the KPCS, remain unresolved. Interregional diamond smuggling requires region-wide responses, especially among enforcement agencies. As the representative of the World Diamond Council noted, ministries from countries affected by smuggling need to meet separately from donors to craft a plan among themselves. A small but elite group of government enforcement agencies should be set up to monitor illegal diamond flows and recommend appropriate new enforcement measures. Carefully targeted but harmonized approaches are essential between KPCS member countries.
- ◆ **Information Sharing.** Participants noted the importance of sharing better information about diamond smuggling across borders, both within occupational groups (e.g., police officials from different countries) and across occupations (e.g., customs officials and police together). They felt that existing multilateral institutions could create spaces/networks/institutions to enhance information sharing.
 - **Cellule de Renseignements Financières (CRF).** Small group participants highlighted the importance of setting up some type of institution to provide information on suspicious financial transactions associated with diamond and other illegal exports. Some countries are setting up institutions to monitor financial transactions, but as is often the case, these structures are sorely underfunded. Staff are simply not equipped with the skills and infrastructure needed to carry out their functions.
 - **World Customs Organization (WCO)/Interpol.** It was suggested that the KPCS Working Group on Monitoring might be able to function as an information hub helping to facilitate diamond-related information flows across these two organizations, building on the Israeli proposal for enhanced collaboration between the KPCS and the WCO
 - **Diamond Industry.** Representatives of the diamond industry expressed a wil-

lingness to provide technical assistance and information on fraudulent trading practices. Further discussion on this important contribution is needed.

Recommendations for Multilateral Organizations

- ◆ **National Conventions against Corruption and Money Laundering.** One participant noted that some countries have not set up framework legislation making corruption and money laundering illegal.
- ◆ **Fraud and Smuggling Monitoring.** The workshop participants uniformly noted that monitoring the flow of illegal diamonds is extremely difficult due to their exceptionally high value and small size. Monitoring smuggling at border crossings will always be quite problematic. However, some best practices of ways to monitor statistics on smuggling are needed. Customs agencies are not able to obtain sufficient and high-quality information. New information protocols are necessary.
- ◆ **Monitoring of Unusual Financial Flows.** Workshop participants surmised that monitoring and discovery of illegal flows of diamonds be best carried out through investigations of financial flows within the international banking sphere. Creation of a *service d'enquêtes financiers* (special agency for monitoring financial flows) for diamonds might be far more effective than simply strengthening customs controls at border crossings.
- ◆ **Trust between Enforcement Agencies.** Many of the participants noted that the most pragmatic way to combat the very sophisticated diamond smuggling rings is to build and strengthen working relationships between customs and police forces. Building police-to-police trust between exporting and importing countries is essential. Several actors, like the Royal Canadian Mounted Police, expressed an interest in participating actively in a forum to develop best practices, as well as providing training and capacity building.
- ◆ **CEN Network.** The WCO suggested that the extensive database of analysis of background information on trends, statistics, and alerts for many commodity chains could be used more effectively for the monitoring of illegal diamond flows. Representatives of countries exporting diamonds encouraged the council to set up new protocols to provide training and other technical assistance in the use of this network. However, some needs, such as computers and connections to the Internet, are sorely needed by some customs agencies in exporting countries.
- ◆ **Engagement of Government, the Diamond Sector, and Civil Society.** The tripartite representatives all expressed a determination to support measures to develop concrete actions to combat fraud and smuggling around diamonds. The diamond industry, as noted by the DeBeers representative, is “very eager” to develop mechanisms to exchange information on illegal diamond flows. European and northern American enforcement agencies similarly expressed an interest in exchanging information and providing training under an appropriate institutional framework.
- ◆ **IMF Topical Trust Fund on Anti-Money Laundering and Combating the Financing of Terrorism.** Workshop participants noted the creation of the new IMF resources of \$31 million over five years to contribute to efforts to combat money laundering and the financing of terrorism. The trust fund works with 16 African countries and provides a range of technical assistance programs and seminars targeted at helping countries address institutional weaknesses. This fund might be available to contribute to some of the proposals highlighted in the Enforcement Seminar.

Acknowledgements

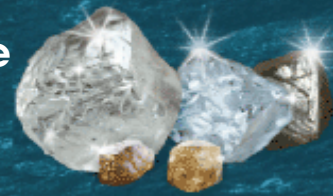
The Enforcement Seminar organizers would like to thank the many contributors to this fruitful session. The chair of the Kimberley Process and the Government of Israel graciously hosted the seminar and covered many important costs of the event.

Special thanks to the Governments of Canada and the United States for co-sponsoring the Enforcement Seminar and supporting many of the expenses of the workshop, including covering the costs of travel for some participants.

The workshop gratefully acknowledges the indispensable assistance of the Kimberley Process tripartite for which this innovative workshop could not have happened. Government support for the workshop was further aided by the Government of Belgium; the diamond industry played a key role through the contributions of the World Diamond Council; and civil society was broadly represented through a coalition of national actors from West and Central Africa. Partnership Africa Canada, with financial support from USAID's Property Rights and Artisanal Diamond Development Project (PRADD), facilitated the strong presence of civil society actors and the voices of the artisanal mining communities expressed through national workshops on enforcement and smuggling held in Côte d'Ivoire, Guinea, Liberia, and Sierra Leone. This active engagement of the KP tripartite at the national and local levels brought fresh concerns, perspectives, and hopes for the future. To these actors, the workshop sponsors are deeply indebted.

Deep appreciation to the speakers and panelists who offered so much information, rich perspectives, and visions for the future.

- ◆ Boaz Hirsch, Chair of the Kimberley Process
- ◆ Agim Debruycker, Government of Belgium
- ◆ Benoît Djaha Konan, CENTIF, Côte d'Ivoire
- ◆ Jonny Cappelle, Customs, Belgium
- ◆ Colin Brown, DeBeers
- ◆ Shri Gurdeep Singh, Ministry of Finance, India
- ◆ Nadim Kara, Partnership Africa Canada
- ◆ A. Kpandel Fayia, Ministry of Lands, Mines, and Energy of Liberia
- ◆ Ephrem Lutete Maketama, Ministry of Finance, DRC
- ◆ Dorothee Gizenga, Diamond Development Initiative
- ◆ Tami Avisar, Israeli Customs
- ◆ Wynet Smith, UN Group of Experts on Liberia
- ◆ Akoi Gawola, Senior Collector at Ganta Customs Collectorate, Liberia



SECTION III: DIAMOND SMUGGLING IN WEST AFRICA AND THE KIMBERLEY PROCESS CERTIFICATION SCHEME

Overview

Côte d'Ivoire is currently the only country that is prohibited under a UN Security Council Resolution to trade its rough diamonds.⁴ Despite a ban on exports of Ivorian diamonds, 100% of diamonds produced in Côte d'Ivoire are smuggled out of the country and into the diamond supply chain, according to various United Nations and Kimberley Process Certification Scheme reports. The UN; the KPCS; and stakeholders from the Mano River Union countries of Guinea, Sierra Leone, Liberia and Côte d'Ivoire have all identified diamond smuggling in the region as a priority issue.

By minimizing flows of illicit diamonds, governments can reduce the probability that rebel groups will be able to use diamonds to finance arms purchases. Minimizing smuggling also shores up public finances, as diamonds going through formal channels can be taxed. Efforts to legalize diamond flows can also support economic development in diamond mining areas, where community reinvestment programs exist.

To support efforts to make progress on the issue of diamond smuggling, the United States funded national dialogues on diamond smuggling in four West African countries: Côte d'Ivoire, Sierra Leone, Guinea and Liberia, with the technical assistance of Partnership Africa Canada and financial support of USAID's Property Rights and Artisanal Diamond Development Project (PRADD).

The workshops, convened by civil society organizations in each country, created a space for multi-stakeholder dialogue on diamond smug-

gling and the Kimberley Process.⁵ In each country, civil society organizations invited a broad and diverse range of organizations to take part, including mine ministries, civil society, artisanal miners, union members, diamond dealers, customs and police.⁶

While the format of each workshop was different, most asked some variant of the following questions:

- ◆ What is the current state of affairs with respect to smuggling?
- ◆ What are the main drivers of smuggling?
- ◆ What is being done to address smuggling; how effective are these actions?
- ◆ What key issues needed to be addressed, and what possible solutions might best address them?

West Africa was chosen as the focus for this project because the Kimberley Process has highlighted Côte d'Ivoire as a priority area for attention.⁷

⁴ UN Security Council Resolution 1643 (2005). Available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/644/81/PDF/N0564481.pdf?OpenElement>.

⁵ See Annex I for short descriptions of the civil society partners in each country.

⁶ Prior to holding their one-day workshop, Green Advocates (the civil society partner in Liberia) conducted extensive consultations in Liberia's diamond-mining communities, as well as one-on-one interviews with key stakeholders.

⁷ The KPCS provided a briefing to the UN Security Council in June 2005, and adopted the Moscow Resolution on Côte d'Ivoire in November 2005. The KPCS also addressed irregularities in Ghanaian diamond statistics that suggested Ivorian diamonds were being smuggled through Ghana. Côte d'Ivoire was the focus of special attention at the Brussels Plenary in 2007, which led to a number of initiatives by the KPCS Working Group of Diamond Experts to support customs officials to identify Ivorian stones.

Summary

Challenges that were identified in at least three of the four workshops (noting the uniqueness of the situation in Côte d'Ivoire) included:

- ◆ **Limited Production Data.** Although mining officials are often tasked with documenting production levels, production data remains questionable, making it difficult to get a clear picture of smuggling.
- ◆ **Unfair Pricing.** Many artisanal miners feel they do not receive a fair price for their diamonds, which encourages them to go to the black market. Some diamond dealers feel the same way about exporters.
- ◆ **Porous Borders and Illegal (Alien) Miners.** Extensive cross-border trading networks, often involving close-knit kin networks, are difficult to monitor due to the large number of border-crossing points and inadequate state monitoring resources.
- ◆ **Limited Capacity/Resources.** Mine Monitoring Officers often lack sufficient resources (mobile phones, transportation and fuel allowances) to play a meaningful monitoring role.
- ◆ **Insufficient Collaboration.** Stakeholders highlighted the need for better communication and cooperation between various enforcement units (police, customs and national security) at the national and regional levels.
- ◆ **Limited KPCS Expertise.** More education and training is required for all actors involved in monitoring KPCS implementation, from miners to enforcement officials.

Stakeholders were asked to generate ideas on how these challenges could be overcome. Recommendations suggested in at least two of the workshops, or that were particularly innovative, are listed here:

- ◆ **Development Solutions:** prevent smuggling from occurring by dealing with issues of fairness and security from the perspective of artisanal miners. For example:

- Collect information about the fairness of the prices received by different actors in the diamond supply chain. Explore ways to ensure artisanal miners are able to negotiate fair prices for their diamonds.
- Monitor contracts between diggers and other actors in the supply chain and create mechanisms to mediate disputes fairly.
- Develop and promote community reinvestment initiatives to highlight the social value of participating in the formal system.
- ◆ **Governance Solutions:** improve systems of oversight and accountability in the diamond supply chain that make it more difficult for individuals to smuggle without being caught. For example:
 - Introduce more random audits and 'spot-checks' into the oversight systems set up at the national level, to cross-reference data collected at different points in the supply chain.
 - Integrate the collection of production data into existing internal control systems.
 - Require dealers and exporters to play a more active role in verifying the origin of the diamonds they buy.
 - Examine models for registering diggers (e.g., Guyanese model).
 - Continue to hold multi-stakeholder dialogues on KPCS issues.
- ◆ **Enforcement Solutions:** improve the effectiveness of those institutions designed to intercept diamond smugglers and bring them to justice. For example:
 - Improve collaboration between enforcement agencies at the national and regional levels.
 - Provide education/training on KPCS for all enforcement-related bodies.

- Seek support from specialized enforcement bodies in diamond trading centers to crack down on diamond smuggling.
- Involve members of mining communities in community-based monitoring of borders and smuggling to compensate for limited state resources.
- Improve judicial oversight over diamond smuggling cases.

National Profiles

A CÔTE D'IVOIRE

Civil society partner: *Groupe de Recherche et de Plaidoyer sur les Industries Extractives*

Overview

The export of rough diamonds from Côte d'Ivoire is subject to a voluntary self-suspension decision made by ministerial decree in November 2002. In 2005, at the request of the Government of Côte d'Ivoire, the UN Security Council imposed a further embargo on the import of all rough diamonds from Côte d'Ivoire (Resolution 1643) to prevent diamonds from being used as a source of finance by the dominant rebel movement (*les Forces Nouvelles*, or FN).

Although armed conflict between the FN and the Government of Côte d'Ivoire has ceased, a de facto division of the country continues, with the FN maintaining effective control of the diamondiferous areas in the north of the country. Ivorian diamond production, which totaled around 300,000 carats/year prior to the conflict (US \$25 million), is concentrated in two areas: around Séguéla-Bobi-Diarabana (covering approximately 100 km²) and Tortiya (approximately 30 km²).⁸

While production levels dropped slightly during the first few years of the conflict,⁹ recent

⁸ Joint UN/KPCS Mission Final Report, April 2008, page 6.

⁹ 2007 production was estimated at between 114,000–188,500 carats by the Joint UN/KPCS mission in April 2008 (page 3).

reports suggest that diamond mining in Séguéla has not only continued, but has expanded. For example, various reports have revealed the exploitation of three new kimberlite pipes in Diarabala as well as new pits at Dualla and Siana.¹⁰ Production in 2009 may actually have reached pre-embargo levels,¹¹ although this is debated.¹²

Existing Actions to Address to Diamond Smuggling

Prior to the conflict, the Ivorian Ministry of Mines granted mining cards linked to specific parcels of land. Holders of mining cards (who were registered in a Departmental database) subcontracted the actual act of mining to groups of artisanal miners or diggers, who were also identified, registered and provided with a labor card. Artisanal miners were predominantly organized at the village level, with every diamond-producing village organized in a council called *Groupement à Vocation Cooperative* (GVC).

The GVC has traditionally been the organization responsible for both collecting and distributing taxes from diamond sales. When a digger sold a diamond to a buyer, 12% of the price paid to the digger was kept by the GVC. A further 8% went to a government body—*Société pour le Développement Minier* (SODEMI).

A network of traders (*sub-collecteurs*, *collecteurs* and *acheteurs*) were licensed once they affiliated with a registered buying office. This network moved the diamonds from the production site through to the buying office. Diamonds for export had to be submitted to the ministry for appraisal prior to export (except for those mined by SODEMI), and customs officials would check whether there was a specific cer-

¹⁰ UN Group of Experts Report, April 2009, page 18 plus Annex VI. See also UN Group of Experts Report, October 2009, pages 61-62.

¹¹ UNOCI diamond expert, workshop presentation, May 29, 2010. See also Annex III of UN Group of Experts Report, April 2010.

¹² Personal correspondence with Leon Boksenbojm, special advisor to the Government of Côte d'Ivoire. Boksenbojm suggests that current production levels are between 80-100,000 carats.

tificate (expert attestation) for the precious stones. Expert attestations were provided by trained experts working for the Ministry of Mines. Staff of the Ministry of Mines also monitored this chain at the regional and departmental levels.¹³

Although this system is no longer in place, diamond mining and trading continues. The Ministry of Mines estimates that currently 5,000 to 10,000 miners could be active in the Séguéla area, where 17 of the 25 cooperatives that existed before the conflict are said to remain in operation.¹⁴ In Tortiya, by contrast, it appears that the mining sites are not being developed as intensively or in as organized a fashion as in Séguéla. The UN Group of Experts estimates that there are less than 5,000 miners in Tortiya, and notes that there is no GVC office there (although there are five informal “buying offices” active in Tortiya).¹⁵ According to the FN, all actors involved in small-scale mining had been previously authorized by the Ministry of Mines.¹⁶

In recent years, the Ministry of Mines has begun to take steps toward reasserting its control. At the May 29 workshop on diamond smuggling in Côte d’Ivoire, the government indicated that it had made the following efforts:

- ◆ Ministerial decree halting diamond exports;
- ◆ Outreach and awareness-raising sessions (conducted in the diamond-producing regions) on the negative impacts of smuggling and the importance of a legal market system;
- ◆ A halt to renewals of exploration licenses and allocations of the rights to explore new parcels of land; and

- ◆ Development of a new system of control to manage the production, collection and stockpiling of diamonds.

Challenges Remaining

“Neighbouring States, specifically Burkina Faso, Guinea, Liberia and Mali, likewise are either unable or unwilling to monitor and enforce the embargo on the import of Ivorian rough diamonds. Côte d’Ivoire’s neighbours justify their inability to comply with resolution 1893 (2009) by citing a lack of resources. The Group acknowledges these problems, but notes a lack of political will in most cases.”

- UN Group of Experts Report, April 2010, pages 13-14

- ◆ **Reestablishing Central Authority.** The Government of Côte d’Ivoire has little to no capacity to regulate diamond production or monitor borders in FN territory. Côte d’Ivoire shares borders with five countries: Liberia and Guinea in the west, Mali and Burkina Faso in the north and Ghana in the east. Of these borders, roughly 60 percent are controlled by the FN.¹⁷
- ◆ **Securing Enforcement Cooperation from Other States.**
 - Burkina Faso has no controls through which to detect the possible import of rough diamonds from Côte d’Ivoire.¹⁸
 - Statistical anomalies related to Guinea’s 2008 production and export figures were the first flag that Ivorian diamonds were being laundered through Guinea’s diamond industry. A range of actors in Guinea’s diamond industry informed the UN Group of Experts that they were easily able to “insert diamonds into the market in Guinea and export them legally with a Guinean Kimberley Process certificate.”¹⁹ Guinean officials also informed the UN Group of Experts “that the country lacks an effective system of warran-

¹³ As described in the Joint UN/KPCS Review Mission Report, April 2008, page 13.

¹⁴ The GVC was the organization responsible for keeping records of diamond production, and collecting taxes on diamond production.

¹⁵ UN Group of Experts Report, October 2008, page 33.

¹⁶ Joint UN/KPCS Report, April 2008, page 10.

¹⁷ UN Group of Experts Report, October 2009, page 88.

¹⁸ Ibid., page 65.

¹⁹ UN Group of Experts Report, October 2008, page 37.

ties... does not have inspectors at mining sites and has porous borders.”²⁰

- In addition to documenting the intimate involvement of Malians in the trade of Ivorian diamonds (as miners, financiers and ‘facilitators’ of the trade),²¹ the UN Group of Experts has also received credible information that has flagged Mali as a major transit point for the export of Ivorian diamonds.²²
- As of October 2009, the UN Group of Experts had not received full and adequate responses from the trading centers to which Ivorian diamonds are smuggled, including Israel and the United Arab Emirates.²³

Recommendations for Action

Whether or not elections take place, or a centralized public administration is established, there are specific steps that can be taken to improve transparency over the diamond industry and to lay a foundation for improved internal controls:

◆ **Collecting Information on the Diamond Trade**, including:

- **Levels of Production.** In 2009, representatives of the GVCs, the Government of Côte d’Ivoire and the FN each “agreed on the need of bringing back SODEMI [the Ivorian mining authority] to... rebuild statistics.”²⁴
- **Industry Structure**, including:
 - shifts in the organization of diggers (e.g., influx of foreign diggers who are not connected to GVC structure conflicts over who has ‘title’ or access to specific parcels of land);

- opportunities to improve the ways in which diggers are registered/monitored; and
- buying and trading networks: who is buying diamonds, how are they being moved out of the country.

— **Beneficiation:**

- what prices diggers are receiving;
- what percentage of this price goes to the GVC;
- what percentage goes to the FN; and
- how the GVC and the FN are using these funds (i.e., whether anyone is making investments in social or economic development, or environmental integrity/rehabilitation).

◆ **Cooperation:**

- Developing a national, tripartite Kimberley Process task force to facilitate information sharing between government agencies—and between government, civil society, labor, mining communities and industry;
- Developing investigative and analytical units that can monitor the rough diamond trade;
- Developing a model for reinvesting diamond revenues accruing to the state back into local communities; and
- Improving relationships with INTERPOL, and encouraging INTERPOL to develop a special bureau focused on precious metals and gems.

◆ **Reasserting Central Authority:**

- The Ministry of Mines should continue to support efforts by the customs administration to create “a single customs territory, in which laws are applied uniformly... and [to redeploy] Ivorian customs throughout the country.”²⁵
- At the May 29 enforcement workshop, the government indicated that they

²⁰ UN Group of Experts Report, April 2010, page 15.

²¹ UN Group of Experts Report, October 2009, page 66.

²² UN Group of Experts Report, October 2008, page 35.

²³ UN Group of Experts Report, October 2009, page 59.

²⁴ Report on the Joint Ministry of Mines, Forces Nouvelles, Group of Experts and UNOCI Mission to Seguela, August 2009, page 2.

²⁵ UN Group of Experts Report, October 2009, page 92.

were elaborating a new system of internal controls.

- The Government of Côte d'Ivoire is also exploring the possibility of having government officers buy up and stockpile diamonds produced by the GVC through the creation of a buying office. The purpose of this scheme would be to keep Ivorian diamonds off the black market without undermining the livelihoods of artisanal miners in Côte d'Ivoire.²⁶ The government would require substantial resources to make these purchases, however. To this end, the government has requested that the KPCS allow periodic supervised exports.²⁷

◆ **Renewed Attention from the KPCS.** The Kimberley Process Certification Scheme was put in place to address precisely the scenario presented by Côte d'Ivoire. While it has taken many actions to date, more can be done. The UN Group of Experts, for example, has called for the KPCS to:

- Build the capacity of countries to identify diamonds from sanctioned areas and prevent their reintegration into the legitimate diamond trade, through:
 - standardizing origin determination methodologies across member states (e.g., use of the footprint of Côte d'Ivoire's diamonds);
 - encouraging the adoption of morphological photographic technical analysis, as used in Ghana, as a permanent procedure within the KPCS; and
 - coordinating and comprehensively funding technical assistance programs to support those countries

²⁶ The UN Group of Experts has expressed concerns about this proposal. UN Group of Experts Report, October 2009, pages 62-63.

²⁷ Note, a precedent for such a model has been set in Zimbabwe, where the KPCS has approved periodic exports of diamonds produced from certain parts of the Marange diamond fields.

willing to strengthen their internal controls.

- Sanction KPCS member states that fail to cooperate with UN bodies tasked with monitoring and investigating UN embargos (e.g., the lack of cooperation noted by the UN Group of Experts on the part of the United Arab Emirates²⁸).
- For neighbors of Côte d'Ivoire, make entry into the KPCS contingent upon the submission of clear evidence of serious efforts to control the movement of Ivorian diamonds into and through their countries.

B SIERRA LEONE

"Without a doubt, the key problems are illegal mining and smuggling, but especially smuggling."

- SL Minister for Mineral Resources (2005)

"It must be acknowledged that Sierra Leone's recorded diamond exports have risen substantially in recent years indicating increasing levels of legal compliance."

- KPCS Review Visit (2009)

Civil society partner: Network Movement for Justice and Development

Overview

While challenges remain, statistics would suggest that Sierra Leone has managed to increase dramatically the percentage of diamonds being exported through the formal system. Legal exports in 1999 amounted to around US \$1.3 million, while exports 10 years later came to almost US \$80 million.

The Government of Sierra Leone has invested substantial resources into developing institutions to provide oversight over the diamond sector, with a lead role played by the Ministry of Mineral Resources (MMR). The Director of Mines, based in Freetown, is supported by four main regional offices, each one managed by a

²⁸ UN Group of Experts Report, April 2008, page 19; October 2009, page 59.

Regional Mine Engineer who acts as the senior ministry representative in each of these four regions. Mine Engineers are supported by Superintendents and Senior Mine Monitoring Officers. Superintendents oversee the work of the Mine Wardens (who demarcate areas of land for mining, issue licenses and maintain cadastral records) and Senior Mine Monitoring Officers oversee the work of the Mine Monitoring Officers (MMOs).

The monitoring work of the Mines Ministry is complemented by the work of the Government Gold and Diamond Office (GGDO), which:

- ◆ Monitors and values diamond exports (witnesses closing of packets for export);
- ◆ Issues KPCS certificates;
- ◆ Conducts evaluations;
- ◆ Ensures that diamond exports comply with the KPCS; and
- ◆ Levies and then allocates the mandated three percent export duty into different accounts of the national consolidated fund.

At the enforcement level, different organizations are involved, including the police, Office of National Security (ONS), National Revenue Authority (Customs and Excise) and Anti-Corruption Commission. Within the police, two separate units work on diamond smuggling issues: the Precious Minerals Investigations and Intelligence Unit (PMIIU) and the Economic Crimes Syndicate.

Existing Actions to Address Diamond Smuggling

Actions taken by the Government of Sierra Leone to date include:

- ◆ Licensing key actors from mining to export: mine operators, dealers and exporters;
- ◆ Documenting all diamonds that are bought and sold, including transactions between (a) mine operators and dealers, and (b) dealers and exporters;
- ◆ Undertaking checks on this documentation by government agencies, particularly by MMOs;

- ◆ Creating enforcement units to address diamond smuggling issues, including the Border Guard Security Unit within the ONS and the PMIIU;
- ◆ Setting up an Anti-Fraud Committee to clamp down on forgeries of Sierra Leonean KPCS Certificates (as noted in the 2009 Annual Report submitted by Sierra Leone to the KPCS); and
- ◆ Providing 25 percent of the officially accrued revenue from diamond exports to the Diamond Area Community Development Fund (DACDF), to encourage diamond miners and dealers to produce and export legally.

Challenges (over and above those mentioned in the Executive Summary)

“The system [of internal controls] is undermined by inadequate documentation of winnings—no production data is gathered— and hence a general absence of paperwork demonstrating the exact provenance of the rough diamonds entering the legitimate trade. This weakness is compounded by a strong disinclination on the part of diamond buyers to ask questions of the vendors regarding the stones’ source. All of the dealers and exporters whom the review team questioned on this subject said that they do not ask would-be sellers where their stones are sourced from.”

- Report of the KPCS Review Visit to Sierra Leone (2009)

Key challenges identified in the workshops included:

- ◆ **Loopholes in the System.** Due to weak oversight over the paper trails developed by the MMR, exporters are able to avoid paying taxes on ‘high-value stones’ (of more than 11 carats) by purchasing lower-valued stones and adding them up prior to submitting this to the GGDO for export.
- ◆ **Weak Judicial Oversight.**
 - According to the KPCS Review Visit Report from 2009, MMOs in Kono District were not aware of any prosecutions for any kind of diamond-related

offences having occurred in recent times.

- Enforcement staff at the airport report around three to four cases of attempted smuggling or diamond-associated fraud at the airport each month but are not aware of anyone ever being prosecuted for these activities.
- Police lack the capacity to distinguish fake certificates of origin from genuine ones.

Recommendations for Action

Development Solutions

The Ministry of Mines and Mineral Resources should explore ways to support artisanal miners to get a fair price for the stones they find. For example:

- ◆ Opening government diamond-buying centers closer to the actual artisanal mining areas that pay fair prices;
- ◆ Training MMR staff on diamond valuation and stationing them in regional offices as a resource to artisanal miners during their negotiations with buyers;
- ◆ Providing miners themselves with training on diamond valuation; and
- ◆ Collecting information on the prices paid to artisanal miners as compared to the valuation of diamonds submitted for export, to assess whether diamond dealers are paying fair prices.

Governance Solutions

The MMR should:

- ◆ Require mine license holders to record winnings and their location in the logbooks issued by the ministry, and ensure that this data is checked and recorded by the MMOs, in order to enhance traceability (as suggested in the 2009 KPCS Review Visit Report).

- ◆ Require dealers and exporters to obtain written proof from vendors of the identity of the particular mining site from which the diamonds are sourced. This written proof could take the form of copies of the completed entries in the mine license holder's log of winnings, where this states the location at which the diamond was extracted. MMOs should carry out regular checks to ensure that dealers and exporters have copies of this documentation (as suggested in the 2009 KPCS Review Visit Report).

- ◆ Examine models for registering diggers (e.g., the Guyanese production model, as noted in Sierra Leone's 2009 Annual Report to the KPCS, or the Ghanaian model).
- ◆ Ensure updated records of export license holders are provided by the MMR to the GGDO.
- ◆ Monitor more rigorously the ability of agents to export on behalf of an exporter.
- ◆ Improve methods for screening applicants for dealer and exporter licenses.
- ◆ Carry out periodic spot-checks and full audits on chains of diamond transactions between mine license holders and dealers, and between dealers and exporters.

Enforcement Solutions

The MMR should:

- ◆ Improve information gathering, analysis and sharing between government agencies.
- ◆ Increase the salaries, logistical support and training provided to MMOs and actively seek support from international donors to cover some of the costs of these measures.
- ◆ Formalize the position of MMOs and institute standard recruitment procedures aimed at assessing applicants' qualifications and capacity to do the job.
- ◆ Promote existing incentive schemes to reward MMOs for catching smugglers.

C LIBERIA

"[There are] strong indications that a substantial proportion of the diamonds extracted in Liberia are not being exported within the Certification Scheme"

- 2009 KPCS Review Visit Report

Civil society partner: Green Advocates

Overview

Having joined the Kimberley Process in 2007, Liberia has had only a few years to put in place the internal controls to be compliant with KPCS minimum requirements. As a result, it is not surprising that the last two KPCS review visits to Liberia (in 2008 and 2009) concluded that Liberia required substantial work to improve government oversight of its diamond sector.

Primary responsibility for the implementation of the KPCS falls to the Ministry of Lands, Mines and Energy (MLME). The MLME oversees the work of the Government Diamond Office (GDO), which is responsible for issuing import and export certificates, including verifying that all internal requirements have been met prior to the issue of such certificates. The GDO is also responsible for preparing statistical information for the KPCS.

The GDO is assisted by a network of 10 Regional Diamond Offices (RDOs) located in the areas of Liberia with active mining. The RDOs are primarily responsible for issuing vouchers when diamonds are discovered. Separate from the GDO, the Operations Division in the MLME handles the issuance of licenses for exploration and mining.

Recognizing the need for a 'whole-of-government' approach to managing the diamond sector, a Diamond Task Force was set up in 2006 to bring together all government and external agencies required to achieve a KPCS-compliant diamond regulatory system in Liberia (although the Task Force has met irregularly since inception).

Existing Actions to Address Diamond Smuggling

Important steps the Government of Liberia has taken to date include:

- ◆ Requiring that all actors from production to export be licensed, including miners (Classes A, B and C) as well as brokers, dealers and exporters;
- ◆ Requiring documentation of every diamond transaction in the chain from production to export:
 - Mineral vouchers are issued to miners by regional offices in diamond-producing areas, copies of which are retained by the regional office, sent to the GDO and provided to the purchaser (listing, *inter alia*, details of the miner's registration number and the claim number, as well as the weight of the stones);
 - Copies of the original mineral vouchers are compared to those presented for exports; and
 - Receipts are issued by brokers and dealers to those they buy from, and brokers and dealers are asked to maintain records and submit monthly reports of all transactions to the GDO, upon penalty of a fine and/or cancellation of their license;
- ◆ Increasing salaries of Regional Development Officers;
- ◆ Supporting community consultations in mining communities to better understand smuggling and illegal mining; and
- ◆ Training staff in the GDO, with the support of two consultants from the EC.

Challenges (over and above those mentioned in the Executive Summary)

Some of the issues Liberia will need to address going forward:

- ◆ **Weak Judicial Oversight.** Participants in the Liberian workshops noted that there were inadequate penalties for criminal be-

havior, as well as political interference in enforcement proceedings when smugglers acting on behalf of powerful elites were brought to trial.

- ◆ **Barriers to Participating in the Formal Diamond Market.** Participants in the community consultations organized by Liberian NGO Green Advocates noted that miners were often reluctant to travel long distances to register their diamonds due to concerns about:

- Security (being robbed on the way to the government offices),
- Corruption (being cheated while in the government offices),
- Delays (offices are not always close enough to mine sites), and
- Legality (the miners are often unlicensed due to concerns about the costs as well as the related delays and expenses).

Recommendations for Actions

A number of stakeholders highlighted the value of having regular multi-stakeholder dialogues to facilitate the identification of challenges and the collaborative development of solutions. In this regard, the reestablishment and strengthening of a multi-stakeholder platform (e.g., the Diamond Task Force) for managing issues related to the diamond sector is critical. The importance of engaging diamond-mining communities in diamond sector management and policy development was also emphasized.

Development Solutions

- ◆ Support miners to organize into cooperatives to improve their bargaining power.
- ◆ Allow miners to secure financing and tools from the government instead of brokers.
- ◆ Provide training for miners to understand the value of the stones they find, as well as up-to-date information on diamond prices.
- ◆ Better promote how resources from diamond exports are reinvested back into diamond mining communities.

Governance Solutions

- ◆ Obtain accurate diamond production figures by having the GDO require miners to submit a monthly production report with the name of the miner, the location of his/her claim and his/her license number.
- ◆ Decentralize the issuance of Class C (artisanal) licenses.
- ◆ Reduce the costs of Class C mining licenses.

“We’ve sixteen border crossing points in our community with no security [stationed] at any of them... security personnel stay in the town while diamond boys stay in the bush.”

- Diamond boy from Camp Alpha

Enforcement Solutions

- ◆ Strengthening penalties for failing to comply with diamond regulations;
- ◆ Asking RDOs to conduct more spot-checks/random visits to mine sites;
- ◆ Developing incentives to reward MLME officials who improve the flow of diamonds through the legal system and increase revenues for the public treasury;
- ◆ Exploring community policing/community monitoring models to bolster limited government monitoring capacity; and
- ◆ Holding workshops with Sierra Leone, Côte D’Ivoire and Guinea to strengthen regional collaboration.

D GUINEA

Civil society partner: *Centre du Commerce International pour le Développement*

Overview

Guinea was a founding member of the KPCS, participating in all the meetings between 2000 and 2003 during which the institutional form of the KPCS was negotiated. Guinea’s diamond sector is managed by the Ministry of Mines and Geology, which includes the National Bureau of Expertise (NBE)—responsible for evaluating diamonds prior to export—as well as the Arti-

sanal Mining Division (AMD) and the Precious Metals Anti-Fraud Brigade.

There are four key stakeholders in the Guinean diamond sector: the diggers, known as ‘creuseurs’; the “masters”, who finance the diggers; collectors, who buy stones from the masters; and the comptoirs in Conakry, who can buy stones from any of the other three groups. After having their stones valued by the NBE, comptoirs pay an export tax amounting to three percent of the estimated value of the stones. All four groups are expected to register for a license.

Existing Actions to Address Diamond Smuggling

Due to financial constraints, the operation of the AMD is essentially confined to Banankoro, which is only one of several diamondiferous districts. Guinea recently liberalized its artisanal mining sector (Arrete A/2009/4136MMEH/SGG), opening up several areas to mining that had previously been off-limits.

Challenges

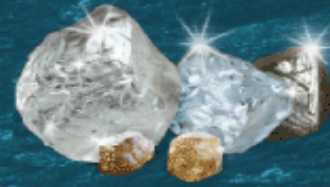
- ◆ **Capacity.** Insufficient material, human and financial resources are in place to monitor artisanal diamond mining effectively from point of production to point of export.
- ◆ **Labor Relations.** Participants identified tensions in the relationship between diggers and their financiers, with some perceiving diggers as being exploited and others perceiving diggers as prone to smuggling (at the expense of their financiers).

- ◆ **Monitoring Miners.** Participants flagged the state’s inability to register diggers, and thus to track diamond production levels.
- ◆ **Porous Borders and Flows of Illegal Aliens.** All participants noted the challenges involved with monitoring flows of migrants and diamonds across Guinea’s borders.
- ◆ **KPCS Expertise.** All stakeholders noted that there was a general lack of awareness of the implications of Guinea’s commitment to implementing KPCS internal controls.

Recommendations for Action

Participants suggested that the government:

- ◆ Regulate the relationship between diggers and their financiers to manage conflicts.
- ◆ Finance diggers directly, to give them an alternative to their financiers.
- ◆ Focus limited monitoring resources at sites where diamonds are washed (there are fewer washing sites than digging sites).
- ◆ Disseminate public information about the KPCS and the Guinean diamond industry.
- ◆ Conduct more rigorous training on KPCS internal controls for all stakeholders, including civil society organizations.
- ◆ Continue to hold multi-stakeholder dialogues and create a space for civil society to support the implementation of the KPCS in Guinea.
- ◆ Re-launch the Property Rights and Artisanal Diamond Development project.



SECTION IV: NEXT STEPS

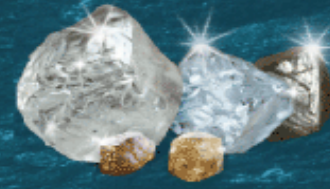
Thanks to Israel's leadership as Kimberley Process Chair in 2010, the KPCS has made some important progress in better understanding the issue of enforcement, and building up its capacity to address challenges at the multi-lateral level. Initial steps that have been taken include a promising new partnership with the World Customs Organization (WCO), which was proposed at the 2010 KPCS Intercessional in Tel Aviv.

Going forward, the KPCS has an opportunity to build on the momentum created by the Chair to institutionalize efforts to improve enforcement cooperation at the international and regional levels. Priority actions for the KPCS could include the following:

1. Set up a KPCS Working Group on Enforcement to steward the development and implementation of a KPCS Work Plan on enforcement.
2. Support initiatives that lead to increased interagency cooperation, information sharing and trust building (e.g., the WCO, Interpol, the IMF Anti-Money Laundering Initiative, etc.).
3. Facilitate the funding of enforcement-related cooperation and activity.

KPCS participants could:

1. Closely examine the prices artisanal miners receive, and explore ways to ensure they receive fair prices.
2. Reinvest a portion of diamond-related revenues back into mining communities and report on the impacts of these investments.
3. Approach the design and implementation of internal controls from a systemic risk management perspective by conducting more random audits and spot-checks.
4. Explore models for collecting meaningful production data.
5. Improve logistical supports for enforcement agencies.
6. Involve communities in community-based monitoring of diamond-producing areas.
7. Continue to involve diverse stakeholders in the design and implementation of KPCS-related policies and programs.



ANNEX I: CIVIL SOCIETY PARTNERS

Côte d'Ivoire

Founded by a group of university graduates committed to the sustainable development of natural resources, the *Groupe de Recherche et de Plaidoyer sur les Industries Extractives* (GRPIE) participates actively in natural resource management debates and policy dialogues. A relatively new member of the KPCS Civil Society Coalition, GRPIE has played an active role in several KPCS meetings at the international level, drawing on its participation in extensive natural resource-related policy dialogues at the national level.

Sierra Leone

The Network Movement for Justice and Development (NMJD) is committed to promoting good governance, participatory democratic practices, public accountability, human rights, gender equity and justice, social and economic justice, and a culture of peace, among others. NMJD monitors a number of natural resource management issues in Sierra Leone, from contract monitoring to the implementation of the KPCS. Most recently, NMJD conducted an audit of KPCS implementation in Sierra Leone which identified the issue of porous borders as a major issue of concern.

Liberia

The Association of Environmental Lawyers of Liberia (Green Advocates) was founded in 2001 by a group of progressive law school graduates. Green Advocates is Liberia's first and only public interest environmental law organization dedicated to:

- ◆ Protecting the environment;
- ◆ Advancing human rights protection and advocacy through sound environmental practices; and
- ◆ Giving voice to rural, indigenous, and tribal people, who historically have been denied access to benefits accruing from the extraction of timber and other natural resources from their tribal and ancestral lands.

Through advocating for strong environmental laws, working to enforce existing laws and empowering citizens to participate in environmental decision making, Green Advocates is helping to build a sustainable future for Liberia.

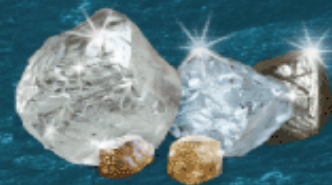
Guinea

The *Centre du Commerce International pour le Développement* (CECIDE, or Centre for International Commerce for Development) manages several programs which contribute to sustainable development in Guinea, and the creation of a dynamic and democratic country. CECIDE is a professional organization with expertise in the Guinean mining sector, which has lent its expertise to the implementation of KPCS internal controls in Guinea since 2005. This work has included an analysis of the ways in which diamonds from neighboring countries might be transiting through Guinea illegally, as well as a national outreach campaign to raise awareness among artisanal miners about the KPCS.



KPCS Enforcement Seminar Agenda

June 24, 2010
Tel Aviv



ANNEX II: KPCS ENFORCEMENT SEMINAR AGENDA JUNE 24, 2010 (TEL AVIV, ISRAEL)

Introduction (8:45-9:00)
Boaz Hirsch, Chair of the Kimberley Process
Panel I: The Big Picture – What are the problems at the international level? (9:00-10:15)
Moderator: Colin Brown, DeBeers
Presentations (30 min):
◆ Agim Debruycker, Belgium (<i>Diamond smuggling/crime</i>)
◆ Ephrem Lutete Maketama, Ministry of Finance, Democratic Republic of Congo, (<i>Diamond smuggling, cross-border issues</i>)
◆ Benoît Djaha Konan, CENTIF, Côte d'Ivoire (<i>General problems with the implementation of the KPCS</i>)
◆ Dorothee Gizenga, Diamond Development Initiative (<i>Development aspects of enforcement</i>)
Discussion period with the audience (45 min)
Break (10:15-10:30)
Panel II: Customs/Border Issues (10:30-12:00)
Moderator: Norbert Steilen, World Customs Organization
Presentations (45 min):
◆ Jonny Cappelle, Belgium (<i>Enforcement cooperation and procedures in Belgium</i>)
◆ Akoi Gawola, Senior Collector at the Ganta Customs Collectorate, Liberia (<i>Problems at the borders of Africa</i>)
◆ Shri Gurdeep Singh, Ministry of Finance, India
◆ Tami Avisar, Israeli Customs
Discussion period with the audience (45 Min)
Lunch (12:00-13:00)
Small Group Discussions: What do we make of the solutions presented previously? Are there more solutions we can think of? What are the best and most practical next steps? (13:00-14:00)
Group Discussions (1 hour):
◆ Customs group
◆ FIU group
◆ Mining/Diamond Office
◆ Foreign Affairs, joined by industry and civil society
Panel III: The Way Forward (14:00-15:00)
Moderator: TBD
Presentations (30 min):
◆ Summary of small group discussions by each of the small groups

◆ Discussion with Current Working Group Chairs (<i>How current working group structures can be used to further enforcement efforts</i>)
◆ Discussion of national workshops/national KPCS forums (<i>Civil society and Brazil</i>)
Discussion period with the audience (30 min)
Break (15:00-15:15)
Special Session: West Africa (15:15-17:15)²⁹
Moderator: Deputy Minister A. Kpandel Fayia, Liberia
Presentations (1 hour):
◆ Presentation by regional civil society groups on national workshops facilitated by Partnership Africa Canada
◆ Presentation by UN Group of Experts on Liberia
◆ Presentations by regional government officials on workshops, trends, and next steps
Discussion period with the audience (1 hour)

²⁹ The organization of the afternoon session was amended to allow for an earlier conclusion of workshop sessions at the request of the West African delegations.

For Further Information

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