

OTHER FACETS

NEWS AND VIEWS ON THE INTERNATIONAL EFFORT TO END CONFLICT DIAMONDS

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MASSIVE BRAZILIAN DIAMOND FRAUD HALF OF BRAZILIAN DIAMOND EXPORTS ARE SUSPECT

Brazil is one of the oldest diamond producing countries in the world, but nobody can say where half of the diamonds it exports have been mined, and government certificates accompanying fully one quarter of Brazilian exports are fraudulent. That is only one finding in a major new report, *Fugitives and Phantoms: The Diamond Exporters of Brazil*, issued in March in English and Portuguese by Partnership Africa Canada.

PAC's 2005 report, *The Failure of Good Intentions: Fraud, Theft and Murder in the Brazilian Diamond Industry* (www.pacweb.org) was rejected by Brazil's National Department of Mineral Production. But not by Brazil's Federal Public Prosecutor and the Brazilian Federal Police.

Following up on cases of fraud identified by PAC, police made simultaneous raids in three Brazilian cities in February 2006, resulting in the arrest of ten people – diamond miners, diamond dealers and money changers – who are now facing charges of fraud, tax evasion and money laundering.

The arrests came during a new PAC investigation, which shows that more than half of Brazil's diamond exports over the past three years are suspect. For 2004 alone, the PAC report provides evidence that one quarter of Brazil's diamond exports were fraudulent. Brazil's second largest diamond miner has been arrested, but that is only the beginning of the story. Brazil's supposed fourth largest diamond producer turns out to be a part-time waiter who until recently lived in a homeless shelter. And Brazil's sixth largest producer is a ghost – a man who died five years ago.

Visits by PAC researchers to the supposed mining sites of the waiter and the ghost found no evidence of mining whatsoever, and government claims to the contrary appear to be cover-ups for bad management at best, and complicity at worst.

Where exports are concerned, the situation is even more damaging. Hassan Ahmad, a Lebanese diamond dealer from Africa and one of those arrested in February, was responsible for more than half of Brazil's diamond exports in 2004. In 2005 PAC detailed a series of frauds involving one of his government-certified exports to Dubai. Ahmad claimed to have purchased the diamonds from a company that in reality deals only in mineral pigments. Ahmad further claimed that the diamonds had been mined in the space of seven days, from untouched ground – by a dead man. On top of all that, the diamonds were undervalued by more than \$2 million.

The PAC report demonstrates that Brazil's diamond sector remains in deep crisis, a crisis that affects the credibility of the newly-minted global system to block trade in the conflict diamonds that fuelled four of Africa's most horrific wars. "In order to protect the overall diamond certification system and the world's legitimate diamond industry, the KPCS must suspend Brazil until there is a full accounting both for the origins of its diamonds, and their destination," said Ian Smillie, Research Coordinator for Partnership Africa Canada.

A Kimberley Process review team visited Brazil in May to investigate the country's ability to control its diamond industry. Since February, all diamond exports from Brazil have been halted.

SOUTH AMERICAN DIAMOND EXPORTS IN DISARRAY

New Report on Guyana Reveals Illicit Trafficking from Brazil and Venezuela

In a new report issued in May, Partnership Africa Canada reveals an illegal tri-border diamond smuggling system, operating completely outside the international Kimberley Process Certification Scheme (KPCS) for rough diamonds. The cross-border diamond smuggling is made possible by weak controls in Brazil and Venezuela.

Triple Jeopardy – Triplicate Forms and Triple Borders: Controlling Diamond Exports from Guyana tells the story of Guyana's diamonds, worth an estimated US\$43 million annually. By and large, Guyana's internal controls are good – possibly among the best worldwide. But the report says that a significant proportion – as much as 20% by value – are smuggled to the nearby Brazilian border town of Boa Vista, where they are mixed with Venezuelan diamonds and laundered back out through Guyana. The region's lax controls make the entire diamond industry and the KPCS vulnerable to infiltration

from the "conflict" or "blood diamonds" that the KPCS was designed to eradicate.

"In Guyana, Brazil and Venezuela, the certificates can have little meaning when smuggling is so rampant," says Bernard Taylor, Executive Director of Partnership Africa Canada. "The situation in the tri-border area of those countries undermines the global Kimberley control system and makes the diamond industry wide open to laundered or conflict diamonds from other countries, such as Côte d'Ivoire and Liberia."

In an earlier report this year, PAC detailed corruption, fraud and mismanagement in *Brazil's diamond industry* (see [previous article](#)). Since then, all diamond exports from Brazil have been suspended.

In this new report, available at www.pacweb.org, PAC calls for the expulsion of Brazil and Venezuela from the world diamond trade body if they cannot immediately bring their diamond industries into proper compliance with the KPCS. A Kimberley Process review team visited Guyana in May to determine the state of the country's control system. The report has not yet been finalized.

Kimberley Corner

During the first half of 2006, KPCS review visits were made to **Guyana** and **Brazil**. A special review team visited **Liberia** to examine progress towards possible KPCS membership, and a second review visit was made to **Lebanon**. Several other countries will be reviewed during 2006. Requests for reviews have been made by **Tanzania**, **Vietnam**, **Singapore**, **Malaysia**, **Romania**, **Australia**, **Japan** and **Korea**. Only a handful of KP participating countries have not been reviewed or have not made a request. Among them are **Thailand**, **Venezuela**, **Bulgaria**, **Croatia**, **Indonesia** and **Laos**.

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A Kimberley Process mid-year “intersessional” meeting will be held in **Botswana** at the end of June, where the main topic of discussion will be a draft evaluation of the KPCS after three years of operation.

CHARLES TAYLOR IN PRISON

“Escapologist” Charged with War Crimes and Crimes against Humanity

Former Liberian President and long-time warlord, Charles Ghankay Taylor, appeared before the UN-backed Special Court for Sierra Leone in Freetown on April 3 to hear eleven charges against him of war crimes and crimes against humanity.

Taylor’s route to the Special Court was a long one, but the end came suddenly and dramatically. Pressed by governments and human rights organizations, and finally by the newly elected President of Liberia, Ellen Johnson-Sirleaf, Nigerian President Obasanjo at last agreed to give up Charles Taylor. Taylor had been living in an upscale villa in a part of Calabar in south eastern Nigeria known as “Diamond Hill”, part of a deal made in 2003 to get him to leave his collapsing country without further bloodshed. As a condition for surrendering Taylor, Obasanjo had required that a request be made by a democratically elected Liberian government. When that finally happened, he said at the end of March that Liberia could “come and take” Taylor. His clumsiness and bad grace ignored that fact that Liberia had no means to “take” Charles Taylor, and that Liberia did not want him under any circumstances. The issue had always been about surrendering Taylor to the Special Court where he had been indicted in 2003.

While Liberia and the Special Court pondered Obasanjo’s petulant “offer”, Taylor disappeared. International outrage mounted swiftly, aimed especially at President Obasanjo’s handling of the situation. En route to Washington for an official visit, Obasanjo was faced with criticism from UN Secretary General Kofi Annan, and was told that his meeting with President Bush might be cancelled. Then, as suddenly as he disappeared, on March 27 Taylor was apprehended in a Nigerian town on the Cameroonian border, 900 miles north of Calabar.

He was traveling in a Range Rover with diplomatic plates, and was reported to have had two 50 kg. bags filled with Euros and US dollars. On March 28th he was transferred to Abuja, and the following day he was flown to Liberia. In a driving rainstorm on the tarmac at Robertsfield, Taylor was arrested and handcuffed by UN peacekeeping forces. An hour later he was placed aboard a UN helicopter and flown directly to the compound of the Special Court in Freetown.

Debate over Trial Venue

Negotiations are under way to move the trial from Freetown to the premises of the International Criminal Court in The Hague. Because the UN Peacekeeping force has been disbanded in Sierra Leone, there is concern that efforts might be made to free Taylor, whom Chief Prosecutor Desmond De Silva termed an “escapologist”. In addition to his Nigerian escape attempt, Taylor escaped from a US detention facility in 1989.

Taylor’s lawyers have argued against the move saying he would not get a fair trial in Europe, and human rights organizations want the trial to take place where Sierra Leoneans can follow the proceedings. A decision on venue has been delayed because the Dutch government wants a third country to handle Taylor’s prison arrangements if he is found guilty. So far, Austria and Denmark have refused. Sweden is reported to be considering the possibility.

Taylor, who initiated a civil war in 1989 that took the lives of some 300,000 Liberians, who aided and abetted vicious rebel armies in Sierra Leone and Côte d’Ivoire, and who trafficked in conflict diamonds and timber to achieve his aims, has pleaded not guilty to all charges.

MEDIAWATCH

In January, the **American Public Broadcasting Service (PBS)** aired an hour-long documentary on the **Cinta Larga Indians** and the diamonds that have been discovered on their land in Brazil’s Rondonia Province. *Jewel of the Amazon: Who Should Control What May Become the Richest Diamond Mine in the World?* Tells the story of the discovery of diamonds on Indian land, the murder of 29 diggers from the outside world, and the ongoing struggle for control of the diamonds. The entire film can be seen at <http://www.pbs.org/frontlineworld/stories/brazil501/>.

In April, a new **Spike Lee** film, *The Inside Man*, arrived on the big screen. Starring **Denzel Washington**, **Clive Owen** and **Jodie Foster**, its centerpiece is a bank heist gone wrong. True to the old line “It isn’t about the money”, the object of the heist is something other than cash. It would be wrong, however, even for a newsletter about diamonds and conflict, to give away the plot line, which has enough twists and turns to keep anyone guessing right up to the end.

Plans for the filming of **Kanye West** and other hip-hop artists in Sierra Leone have experienced scheduling delays, although the trip is still on and planned for July. The documentary film about the visit, *Bling*, has raised concerns that out-of-date or exaggerated tales of war and child labour will hurt Sierra Leone’s recovering post-war diamond economy.

Kouwenhoven War Crimes Trial Ends

Gus Kouwenhoven, a 63-year old Dutch businessman who ran a hotel and several logging operations in Liberia during the regime of ex-president Charles Taylor, was found guilty on June 7 at his trial in The Hague. Kouwenhoven was tried on charges of war crimes and of violating UN embargos on weapons to, and timber from Liberia.

Prosecutors charged that Kouwenhoven smuggled weapons into Liberia for Taylor in return for concessions granted to two of his companies, the Oriental Timber Company and the Royal Timber Company.

Kouwenhoven was first named in a December 2000 UN Expert Panel Report on the connections between diamond smuggling and arms in Sierra Leone. His business dealings were subsequently described in detail in a March 2003 Global Witness report, *The Usual Suspects: Liberia's Weapons and Mercenaries in Côte d'Ivoire and Sierra Leone*.

Arrested in 2005, Kouwenhoven claimed that he was simply a businessman who was in the wrong place at the wrong time. Prosecutors saw it differently, saying that "He was not a businessman who was in the wrong place at the wrong time, but a man whose affairs flourished in an environment of corruption, failing government and armed conflict." The prosecution asked for a 20-year prison sentence and a fine of €450,000, but Kouwenhoven was acquitted of the war crimes charge and was sentenced instead to eight years in prison.

DIAMOND DEVELOPMENT INITIATIVE ISSUES FIRST REPORT

The Diamond Development Initiative (DDI), a joint effort among several private sector firms (De Beers, Rapaport Group, International Diamond Manufacturers Association) and NGOs (PAC, Global Witness, FESS) and the Communities and Small-Scale Mining Secretariat, has released its first report, a study on the dynamics of diamond marketing and pricing in Sierra Leone. It has long been known that artisanal diamond diggers labour under unhealthy and often dangerous conditions. It is also no secret that they earn a fraction of the value of the diamonds that are exported from producer countries.

What has never been very clear is the nature and network of middlemen, however, and whether vast profits are being made at specific points in the very opaque pipeline between miner and exporter. *Dealing for Development* (available also in French), by Estelle Levin and Lansana Gberie, sheds new light on the diamond economy of Sierra Leone, and provides essential background information for anyone interested in making changes at the grass roots.

The report describes the reality – and the incredible complexity – of the largely informal diamond-buying network in Sierra Leone, and the wide range of players involved. It describes a system that thrives because it is based to a large extent on secrecy, favours, trust and mistrust, dependency and disinformation. Many of those in and around the diamond pipeline do not know the true value of their product, and are therefore vulnerable to unfair exploitation. It is a system where very few rules apply, where product knowledge is limited, and

where many influences and considerations interact to form a complex web of activity.

The simplest change, the report says, would be to remove or consolidate the vast intermediate level of dealers, financiers, agents and coaxers. Dealers argue, however, that they are necessary to the industry as it currently stands because they are the only source of financing for diggers and those with mining licences. If they were to disappear – assuming this could be made to happen – exporters would make more money, but there is no guarantee that diggers would. A further likelihood is that if they were *legislated* out of business, dealers would simply go underground, and smuggling would increase.

The real challenge in reducing the massive middle is to give those at either end of the chain real economic incentives to act differently, and to provide opportunities for them to negotiate directly with one another.

The report considers how this might be done through better information and knowledge on the part of diggers, better organization, different kinds of financing, greater transparency and by formalizing the informal. One-off, piecemeal efforts, however, are unlikely to work, the report says.

The full report, a summary version and a *Policy Brief* discussing the implications of the report can be found at www.pacweb.org

MAJOR CHANGES AFOOT IN BELGIUM Leveling the Commercial Playing Field

Belgium's diamond industry, long concerned over the leakage of business to **Dubai** (where diamond turnover was \$10 billion in 2005), has negotiated a new arrangement with the government, aimed at making Belgium a more attractive location for the diamond trade.

The **Diamond High Council** (HRD) has long argued that values should be removed from Kimberley Certificates. One reason for this has to do with how diamond companies are taxed in Belgium – on the basis of turnover and how diamonds are valued, rather than on actual company profits. The HRD, hitherto a non-profit body representing the industry, will now be incorporated as a commercial company. But a protocol signed between the HRD and **Belgium's Prime Minister, Guy Verhofstadt**, at the end of May, goes a lot farther. The HRD will abandon its efforts to have value removed from the KP certificates, and a new one-time revaluation of company inventories will be allowed, with a tax rate that is expected to be around 3%. This will be a form of tax amnesty, allowing hidden capital to emerge into the sunlight and presumably to be more productive.

Belgium will also establish a tax free "customs export facility" for polished diamonds that may remove some of Dubai's competitive edge. And perhaps most importantly, the government will recognize the transfer pricing arrangements that make Dubai so attractive to those wanting to park profits offshore. The government has agreed not to tax foreign income realized in this way, "provided it does not exceed five times the taxable profit declared in Belgium". Transfer pricing for the purpose of tax avoidance has already started to confound Kimberley Process statistics, and will likely become an issue of concern to the world certification body before long.

THE TWO CONGOS

Intimidation and Threats against Transparency Activists

In April, two prominent campaigners against human rights abuse and corruption in the Republic of Congo (Brazzaville) were arrested, allegedly for misappropriating funds from the NGO that one of them founded. Christian Mounzeo and Brice Mackosso (now released on bail) are coordinators of the international **Publish What You Pay Campaign**, which calls for greater transparency in the management of revenues paid to governments by oil and mining industries. Both had been the subject of government denunciations for several months before their arrest. The ROC has been the subject of widespread reporting by the media and in courts of massive oil-related budgetary irregularities, even though the country is a member of the **Extractive Industries Transparency Initiative (EITI)**.

At the same time, in the DRC's Katanga province, two leading civil society activists who are also associated with the Publish What You Pay Campaign, and who serve on the EITI DRC committee, were the subject of political denunciations and death threats. Jean-Pierre Muteba and Jean-Claude Katende, both well known activists who have campaigned for years against abuses in the natural resources sector, appear to be victims of a wider effort by government to silence its critics.

The problems of the DRC's mineral sector are the subject of a new report published jointly by two Dutch organizations, **Fatal Transactions** and **NIZA**, and the Belgian organization, **IPIS**. The report, entitled *The State vs. the People: Governance, Mining and the Transitional Regime in the DRC*, says that three years of transitional

government in the DRC has led to anything but stability and economic prosperity. Based on investigations in Katanga, the report demonstrates how members of government, with the help of international donors such as the World Bank, have profited from the natural wealth of the Congo in recent years, at the expense of the Congolese people. The report aims to shed light on power structures in the Congolese resource industry, illustrating how poor policy, political incompetence and corruption have led to the collapse of the formal mining industry. The report is available in English and French at www.niza.nl/index_en.phtml. Information on Publish What You Pay is available at www.publishwhatyoupay.org/english/, and information on EITI can be found at www.eitransparency.org/.

Books

Jeff Buick, *African Ice*, Leisure Books, New York, 2006, 372 pages, US\$6.99, £5.99, C\$8.99

Just as some films bypass theatres and go straight to video, this potboiler about diamonds in the Democratic Republic of the Congo – or “DROC” – as the characters call it, went straight to paperback. One reason can be found on the first page where there are six incomplete sentences in the second paragraph. Forget about incomplete sentences, however, what about incomplete research? The story revolves around a world class geologist (young and beautiful, of course, plus fearless – she jogs in Central Park) who is asked by a ruthless diamond company to go to D-Rock and find the source of sample diamonds she is shown in New York. She – the beautiful geologist who jogs in Central Park – wants to make sure that the samples are not from some other place, and asks for evidence. “You’re referring to the laser ablation method the Canadian RCMP have been working on?” she is

asked. *Mais naturellement*. She examines the RCMP report and satisfies herself that the diamonds have “trace elements not found in the mangrove swamps of Sierra Leone.” Or, presumably, South Central Los Angeles. So they must be from D-Rock.

That settled, chapter three is devoted to a detailed description of all the weapons the team leader, an ex Navy SEAL, will need to protect the beautiful geologist in D-Rock, because “Everything in a constant state of turmoil – that was life in the diamond producing areas of Africa.” And in this book, as well. Following 300 pages of shooting and bloodshed and explosions that range across Africa from the Congo to Cairo, the beautiful geologist and her now former navy SEAL boyfriend wind up in Antwerp. After a meal of mussels, Stella and Belgian chocolates (*really!*), they visit the sumptuous De Beers office (Persian carpets, marble, teak, gold etc) where she switches real diamonds with fakes (don’t even ask why, much less how). When one of the baddies complains, the De Beers director says, “Mr. Kerrigan, De Beers is a respectable establishment. Foul language is not acceptable. Another outburst and I will ask you to leave immediately.”

These are the high points of the book, just so you know what to expect.

OTHER FACETS

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