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Reforming the DRC Diamond Sector



A briefing document by Global Witness
June 2006

Introduction

The Democratic Republic of Congo (DRC) is extremely rich in natural resources. The responsible management of these resources is the key to the future stability and peace in the country, as well as economic growth. Diamonds, the country's most valuable export, are one of several resources which have contributed to funding armed conflict in the DRC from 1998 to 2003.¹ Since 2003, the DRC has been participating in the Kimberley Process (KP), an international diamond certification scheme designed to eliminate the trade in conflict diamonds. Its participation in this scheme is one element that has led to a significant increase in official diamond exports. However, the DRC still lacks a strong set of internal controls to ensure that it can track all diamonds from the mine to the point of export. Diamonds are still being smuggled out of the country, and diamonds from neighbouring countries are being smuggled in.

The transitional government, which has been in place since 2003, has taken insufficient action to exercise control over the diamond sector and ensure that diamond revenues contribute to the country's development. Donor initiatives to encourage reforms in the diamond sector during the transitional period have also been insufficient. Some progress has been made, notably since the DRC joined the Kimberley Process, but broader reforms have been slow and have lacked the strong political will necessary to see them through. The election of a new government in the DRC in 2006 presents an opportunity to revive efforts to improve the management of the diamond sector. Donors should seize this opportunity to work with the new government to implement effective reforms without delay. This briefing paper outlines the main outstanding problems in the diamond industry and recommends specific measures to address them.

Conflict Diamonds

Although armed conflict has decreased in the DRC since the peace agreements signed in 2002, fighting between the national army and various rebel groups has continued in parts of the country, particularly in the east. Some of this fighting has been centred

around diamond mines and other areas rich in natural resources. One recent example was reported on 8 March 2006, when military from the FARDC (Forces Armées de la République Démocratique du Congo), the DRC's national army, clashed with an armed group known as Simba, believed to be linked to the Mayi-Mayi rebel group, in a diamond mine in Ombadio, Maniema province in eastern DRC. According to the news report, diamond diggers had asked members of the Simba group to come to the mine because they felt threatened by FARDC soldiers situated near the site.²

Diamonds still failing to contribute to development

Although approximately US\$870 million³ worth of diamonds were officially exported from the DRC in 2005, this trade has not translated into any meaningful benefits to the Congolese population. The government has not re-invested diamond profits into the country. Taxes due on diamond exports are low, and moreover, diamonds are often undervalued for export, thus undermining taxes to be returned to the state. The DRC imposes an aggregate export tax total of 3.75% on diamonds, divided up between government departments and producing regions. This compares with 11.25% in the Central African Republic and up to 11% in Angola.⁴ One percent of the value of diamonds at first point of sale is supposed to be returned to the producing provinces where the diamonds originate, but this is not being returned in full.⁵ Local populations are not benefiting from the mineral wealth in their area. With only one paved road and a lack of basic services such as the supply of clean water and electricity, the majority of residents of Mbuji Mayi – the largest town in the diamond-producing province of Kasai Oriental - have not benefited from the enormous diamond wealth under their feet.

Industrial diamond mining

The industrial mining sector is in disarray. MIBA, the parastatal diamond mining company, is not operating at a profit, and millions of dollars have been lost due to corruption, fraud and theft.⁶ An audit of MIBA that was carried out by the firm KPMG in 2005 has not yet

been published.⁷ The only other industrial mining operation, Sengamines, has been out of production since March 2005. It was sold in early 2006 to First African Diamonds Limited, a company run by South African entrepreneur Mike Nunn, which will own 80% with the remaining 20% to be owned by MIBA.⁸ International diamond mining companies have also obtained mining concessions and are carrying out exploration and prospection work in the DRC.

Artisanal diamond mining

Beyond industrial operations, the DRC has an extremely large artisanal mining sector – larger than any other country in the world. The diamond trade directly affects millions of people in the DRC. Out of an estimated total population of 60 million, as many as one million people work as miners in the alluvial diamond mining sector at different times.* These workers have millions of dependants who also rely on this trade to survive. Diamond diggers may earn less than US\$1 a day, working in dirty, dangerous conditions. Many live in extreme poverty. In addition, artisanal diamond diggers entering the mining concession of MIBA, the parastatal diamond mining company, have been shot and killed, often caught in crossfire between “suicidaires”, armed military deserters illegally entering the concession, and MIBA Mining Guards.⁹

Weak controls

A large number of diamonds are being exported through official channels, being certified before export by the Centre of Evaluation, Expertise and Certification (CEEC), the government agency responsible for the implementation of the Kimberley Process in the DRC. However, internal controls over the mining and trade in rough diamonds are poorly enforced and diamonds cannot be tracked from the mine to export: a crucial component of the Kimberley Process. There is little knowledge of where the diamonds originate from,



DRC's industrial diamond mining parastatal – MIBA.

or even whether they were mined in the DRC. DRC diamonds are being smuggled out, and other countries' diamonds are being smuggled in.¹⁰ In July 2004 the Republic of Congo was removed from the Kimberley Process because it was exporting diamonds mined in the DRC and other countries. The Service d'Assistance et d'Encadrement du Small Scale Mining (SAESSCAM) was established to track the flow of diamonds and other minerals but it is barely operational in most of the country.

International donors

Despite providing billions of dollars in foreign aid, international bilateral donors and financial institutions have not placed stringent lending requirements on the DRC's transitional government to ensure that this money is going to the right places. Donor governments have paid lip service to the problems of corruption in the natural resource sector, but have not done enough to encourage the transitional government to tackle these problems head on and institute reforms. The majority of recommendations made in October 2004 by the Kimberley Process review visit have still not been implemented. Some donors have acknowledged that more must be done in the diamond sector, but to date this has not translated into concrete action.

* It is extremely difficult to accurately determine the numbers of artisanal diggers as most operate outside the formal sector and are not registered; the number also fluctuates seasonally. However, industry and government estimates place the number of artisanal diamond diggers in the DRC between 700,000 and one million.

Recommendations

The recommendations below are addressed to the DRC government, international donors and the diamond industry. These reforms should be embarked on as soon as possible in order for the elected government to take them forward from the second half of 2006 and beyond.

Global Witness welcomes the significant increase in the DRC's official exports of diamonds as a result of its adherence to the Kimberley Process but believes that much more must be done to create a strong system of controls in the DRC's diamond sector. Likewise, Global Witness welcomes the DRC's decision to join the Extractive Industries Transparency Initiative. However, the Kimberley Process and the Extractive Industries Transparency Initiative alone are not the solutions to the problems affecting the diamond sector in the DRC.

Fundamental reforms of government systems are needed to make positive changes to the DRC diamond sector. These reforms require a holistic approach that focuses on improving internal controls and transparency while understanding how profits from diamonds can benefit diamond mining communities and contribute to development.

1. Kimberley Process

The DRC Government, with the support of the international community, should

- Implement the recommendations made by the Kimberley Process Review Visit in October 2004 according to a detailed action plan and timetable developed in coordination with the donor community.
- Develop a plan to implement recommendations relating to alluvial diamond mining made by the Kimberley Process sub-group on alluvial mining. The CEEC should build on an initial meeting that was held to discuss these issues in February 2006.
- Increase controls from mine to export, including controls at production sites, and ensure that the origin of rough diamonds presented for sale to comptoirs can be identified. Focus on monitoring known problem areas, particularly diamond mines close to borders and mines with high production. Cross-check exports against the production of a particular pit or plot at each step of the marketing chain to improve traceability of diamonds.
- Improve coordination between all the different government bodies involved in the diamond sector.
- Increase efforts to ensure that the production of artisanal mines is recorded on a regular basis and communicated to the Ministry of Mines at the national level and the CEEC.
- Ensure effective oversight of SAESSCAM to avoid any direct involvement in the diamond industry and ensure that it does not direct diggers in ways that benefit middlemen to the detriment of the diggers themselves. Provide SAESSCAM with sufficient support for it to remain clear of political interference and corruption.



Artisanal diamond diggers in Mbuji Mayi, DRC.

- In conjunction with neighbouring countries, develop a coordinated anti-diamond smuggling programme to be deployed across the DRC and the region.
- Work with governments of neighbouring diamond-producing countries including Angola, the Republic of Congo, Central African Republic, and Tanzania, to achieve tax harmonisation to reduce incentives for smuggling.
- Train national and regional staff of the CEEC and the Ministry of Mines in monitoring and tracking diamonds from mine to export.

Bilateral donors should:

- Develop a coordinated action plan for donor support to provide the DRC government with financial and technical assistance to implement the Kimberley Process Review Visit Recommendations according to a fixed timeline. Donors such as Canada, the UK, the US, Russia, Belgium and the EC that have significant experience and knowledge of the Kimberley Process should assist in the implementation of the recommendations.
- Provide technical and financial assistance aimed specifically at increasing the DRC's capacity to regulate the informal mining sector, including providing training and support to the Ministry of Mines, the CEEC and SAESSCAM.
- Undertake a detailed study, in close cooperation with the DRC authorities, to establish the size and nature of the artisanal mining sector and identify areas where assistance is most urgently needed, with a view to improving regulation of the sector and enhancing the traceability of production.

The diamond industry in the DRC should:

- Request third party audits to assess compliance with the Kimberley Process and the industry self-regulation. Cutting and polishing factories should be audited to tally data on rough diamonds

entering the factories with polished diamonds leaving and should submit their records to the government. Diamond dealers and exporters should also be audited by independent third party auditors to cross-check the origin of diamonds and to cross-reference records with transactions and stocks.

- Develop standards for polishing/cutting factories to help ensure that conflict diamonds are not entering the legitimate diamond trade. This should involve developing an inspection system to evaluate the implementation of such standards among manufacturers as well as companies dealing in rough diamonds.
- Actively support the implementation of the Extractive Industries Transparency Initiative in the DRC.

The Kimberley Process should:

- Establish a rigorous follow-up procedure to ensure that recommendations are being implemented.
- Build on the recommendations on alluvial mining made in November 2005 and develop guidelines for the implementation of these recommendations.
- Assist in ensuring that import and export statistics from the DRC are effectively compiled, monitored and reviewed.
- Ensure that the neighbouring Republic of Congo is not permitted entry into the Kimberley Process until it has fully implemented all requirements set out for re-entry and can prove that it is fully committed to the aims of the Kimberley Process and will not continue to export diamonds smuggled from neighbouring countries including the DRC.

2. Oversight of the diamond industry

The DRC government should:

- Publish the results of the MIBA audit and make them available nationally and internationally. Recommendations to improve security, finance and administrative management to reduce theft, smuggling and fraud should be acted upon as a priority.
- Require that cutting and polishing factories record the amount of rough diamonds entering the factory, details of the manufacture of cut and polished stones, and the remaining rough diamonds for export. These figures should be submitted monthly to the government, who should be able to carry out their own checks to tally rough diamonds with polished diamonds leaving the factory.
- Engage with the Diamond Development Initiative (DDI) which aims to improve the working conditions and incomes of artisanal alluvial diamond miners in Africa, develop the potential for reforms in the artisanal mining sector and increase benefits for artisanal miners.
- Investigate shootings of miners on the MIBA concession; suspend those found responsible and hand them over to the justice system, as appropriate, for prosecution. Prevent any further unlawful shootings of diamond miners on the MIBA concession.
- Investigate reports of fighting in diamond mining areas in Maniema province, including the role played by members of the FARDC and armed groups, and take measures to prevent further conflict in these and other mining areas.

The World Bank, UNDP and bilateral donors should:

- Take an active role in supporting initiatives emerging from the Diamond Development Initiative (DDI) in the DRC.

- Take into account positive and negative lessons from Sierra Leone's diamond sector reform programmes which are aimed at regulating the diamond sector, and increasing benefits to diamond diggers.

3. Revenue Transparency

The DRC government should:

- Develop a transparent fiscal system to track money received from diamonds and other natural resources into the state budget and ensure that all revenues are published. Systems of accountability for the proceeds of natural resource exploitation should be put in place, and penalties imposed on anybody found to be violating these systems.
- Provide clarification of all taxes that are supposed to be levied on diamond production, sale and export. Ensure that these are collected and that tax due to provinces is returned, as set out in national legislation. Provincial authorities must account fully for all money returned to them.
- Ensure progress in the implementation of the Extractive Industries Transparency Initiative (EITI) and the active participation of civil society. All relevant government departments should be involved in developing the public, financially sustainable work plan for EITI implementation required under the minimum criteria.
- Hold an international, open and transparent tender for a contract to appoint an independent diamond valuer. If carried out transparently and credibly by a legitimate valuer, independent valuation can be a vital tool for governments to increase revenues to the state from official exports. Training of existing CEEC valuation staff should be one of the key components of any valuation contract.
- Ensure that diamond valuers within the CEEC are rotated regularly to minimise the risk of collusion with diamond exporters. CEEC operational staff should be paid reasonable wages to ensure that

they are not vulnerable to offers of money in return for a favourable valuation.

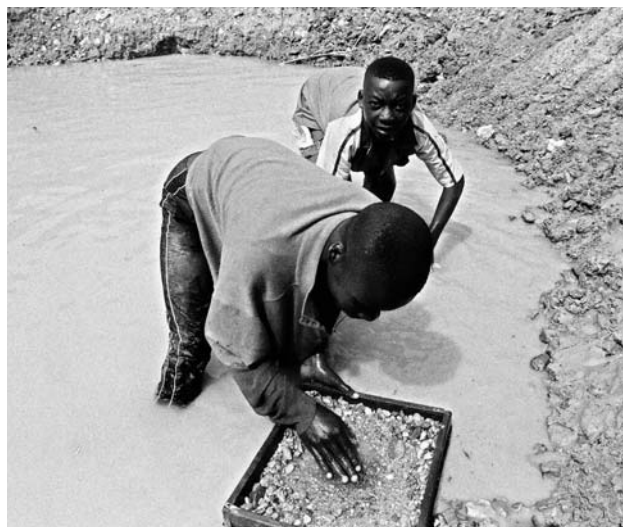
- Request an independent audit of valuation mechanisms within the CEEC to ensure that diamond parcels are exported with the correct valuation.
- Publish all statistics of diamond production, diamond imports and diamond exports and make these widely available including over the internet.

The IMF and World Bank should

- Make all non-humanitarian aid and technical assistance and loans to the DRC government conditional on the establishment of a functioning and transparent system of accounting for public revenues from natural resources.
- Ensure that concrete progress on indicators and benchmarks set out in the Poverty Reduction and Growth Facility (PRGF) are fulfilled before further funds are released.
- Develop specific diamond-related indicators to trigger further release of funds to the government. These can be based initially on recommendations set out in the Kimberley Process review visit report of October 2004.

Bilateral donors should:

- Explicitly raise the need for improved governance over natural resources and revenue



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Artisanal diamond workers in the DRC.

transparency with the DRC government and urge them to implement all recommendations made above. Where necessary, provide assistance to the government in implementing these recommendations.

- Request that all revenues generated through natural resource extraction are directly channelled through the Ministry of Finance and the Central Bank.

MIBA should:

- Implement a comprehensive security review in the diamond sorting plants. Consider measures such random checks for smuggled diamonds, regular rotation of all staff in diamond sorting areas to prevent smuggling, and replacement of all electronic security equipment.

1 Global Witness, "Same Old Story. A background study on natural resources in the Democratic Republic of Congo", June 2004.

2 Radio Okapi report, 8 March 2006. BBC Worldwide Monitoring, "Dacono government troops clash with Maya Maya fighters", 8 March 2006.

3 Global Witness Source.

4 Presentation by former head of the CEEC Victor Kasongo at the Kimberley Process Intercessional meeting, June 2004, Moscow, Russia, based on information provided by neighbouring countries.

5 Global Witness interview with Dominique Kanku, Governor of Kasai Oriental province, August 2004.

6 In 2005 and 2006, Global Witness sent several letters and emails followed up with phone calls to MIBA representatives asking them to respond to specific allegations of fraud, theft and corruption. To date, we have received no reply.

7 KPMG informed Global Witness that they had carried out the audit but were not authorised to publish the report, February 2006.

8 Rapaport News, "New Name, Owner for Sengamines in the DRC", Jeff Miller, 05 April 2006

9 For current information on the shootings at MIBA and other human rights abuses in the DRC, see the UN Mission in DRC (MONUC) website

<http://www.monuc.org/News.aspx?newsID=10945> - paragraphs 36, 42 and 43 relate directly to MIBA. Also see: Amnesty International, "Making A Killing: The diamond trade in government-controlled DRC", October 2002. Global Witness interviews with NGOs and local government representatives in Mbuji Mayi, August 2004. Global Witness interviews with human rights workers December 2005, Kinshasa.

10 Kimberley Process Certification Scheme Review Visit to DRC, October 2004.



Artisanal diamond diggers in Mbuji Mayi, DRC.

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©Global Witness Publishing Inc. 2006.

ISBN0-9779821-0-8

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Printed on 100% unbleached, recycled paper.



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