

# Fire in the Ice:

Benefits, Protection and Regulation in the Canadian Diamond Industry

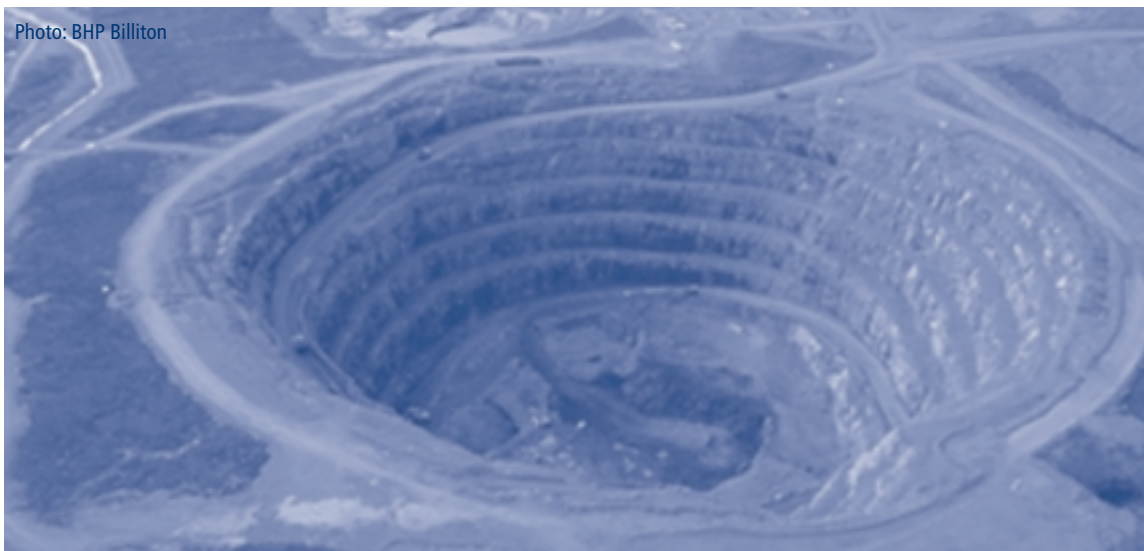
By Ian Smillie

Canada is a newcomer to the world of diamonds, but it is already one of the largest producers of top quality stones. Its mines are remote and its diamonds are clean. Or are they? Can local communities benefit from the discovery of diamonds beneath their feet? Can they negotiate successfully with giant international mining firms? Can any diamond-producing country remain aloof from the taint of 'conflict diamonds' - diamonds stolen by rebel armies in Africa to fuel war and terror? This paper describes elements of the Canadian diamond experience which might be of use in other countries, and it examines Canada's readiness for an international diamond certification system which seeks to end the trade in conflict diamonds.

## The Study

*Fire in the Ice: Benefits, Protection and Regulation in the Canadian Diamond Industry* is an Occasional Paper of the Diamonds and Human Security Project, a joint initiative of Partnership Africa Canada (Ottawa), the International Peace Information Service (Antwerp) and the Network Movement for Justice and Development (Freetown). The project aims to shed greater light on, and to help end, the trade in conflict diamonds. The paper is the result of extensive discussions with officials of the governments of Canada and the Northwest Territories, with officials in the diamond mining, trading, cutting and polishing industries, with civil society organizations and others. The author is grateful to several readers who provided very helpful advice on an early draft. The views expressed, however, are those of the author and the Project alone.

Photo: BHP Billiton



*BHP Billiton's Panda Pit at Lac de Gras, Northwest Territories*

# Part I: The Not-so-Barren Lands

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Diamond exploration is not new in Canada, but there was nothing of commercial value until major diamond-bearing kimberlites were discovered at Lac de Gras in the west-central Northwest Territories (NWT) in 1991. Lac de Gras lies above the tree line, in the so-called 'Barren Lands', where winters are long and where the land is slow to reveal its secrets. The discovery of diamonds, however, by two geologists, Charles Fipke and Stewart Blusson, set off the largest staking rush in Canadian history, and brought some of the world's largest mining companies into the area.<sup>1</sup> More than 20 economically viable diamond bearing kimberlites have since been discovered in the NWT, and other finds have been made in Alberta, Manitoba, Nunavut, Ontario, Quebec and Saskatchewan.

By 2000, less than a decade after the discovery at Lac de Gras, Canada was exporting more than US\$400 million worth of high quality rough diamonds. Before the end of the current decade, Canada may be producing as much as 15% of the world output by value, and possibly much more.

## Mining

### Ekati Diamond Mine

The Ekati Diamond Mine is located on the Arctic tundra near Lac de Gras, or *Ekati* as the lake is called by the Dene people, 200 km south of the Arctic Circle and 300 km northeast of Yellowknife, capital of the NWT. There are no settlements in the area and the mine is serviced by air, and by an ice road which is only open for ten to twelve weeks during the winter. The Ekati claim covers an area of 344,000 hectares and the land leases cover approximately 11,000 hectares.

Ekati began as a joint venture between BHP Diamonds Inc. (51%), Dia Met Minerals Ltd. (29%) and the two geologists responsible for finding the diamonds, Charles Fipke and Stewart Blusson (10% each). In May 2001, BHP merged with Billiton plc, a South African-owned, London-head-

quartered mining giant, to become BHP Billiton, making it the largest diversified resources company in the world. The following month it bought Dia Met, giving BHP Billiton 80% ownership in the Ekati mine.

The process from the discovery of diamonds at Lac de Gras in 1991, to the official opening of the Ekati Mine in 1998 was complex. It involved negotiations with the Federal Government of Canada, the Government of the Northwest Territories, and with the Aboriginal people living in the impact area of the mine, a vast expanse which stretches from Yellowknife in the South to the Arctic Ocean in the North. Important licences included those dealing with fisheries, water regulation and land use. BHP's Environmental Impact Statement, submitted to the Environmental Assessment Review Panel, consisted of eight volumes and weighed 64 pounds.

All licenses and approvals were finalized in January 1997, and following 18 months of camp construction, production began in October 1998. The mine is projected to have an 18 year life and is expected to yield three to five million carats annually, worth more than US\$120 per carat, with annual sales of approximately US\$500 million.

### The Diavik Project

The Diavik project consists of four kimberlite pipes just off an island in Lac de Gras. The project is a joint venture between a Canadian company, Aber Diamond Mines Ltd, (40%) and Diavik Diamond Mines Inc.(DDMI), a subsidiary of the mining giant, Rio Tinto plc. DDMI is the project manager, and under the terms of the joint venture, each partner retains the right to market its share of the diamonds separately. Exploration began in 1993 and negotiations with various branches of government began in 1998. These were completed in 2000, after which infrastructure and camp construction began. Capital expenditure is expected to run to C\$1.3 billion, and mining will begin early in 2003. The mine is expected to produce 6 million carats annually at peak

## The Northwest Territories

The Northwest Territories (NWT), roughly the size of Angola, cover approximately 1.2 million square kilometres north of the 60th parallel, above Saskatchewan, Alberta, and eastern British Columbia, and between the Yukon and Nunavut.

Although not a province, the NWT government has the same general responsibilities as provincial governments in Canada: taxation, municipal bodies, education, wildlife, health and hospital services, forest management, housing, social services and economic development. It lacks jurisdiction over land and resource administration, including control over the pace and scale of resource development and subsurface water rights. The issue of settling Aboriginal land claims in the NWT emerged in the 1970s. In 1984, a final agreement was reached with the Inuvialuit people of the western Arctic, and in 1992, the Gwich'in settled a comprehensive land claim. The 1993 conclusion of the Nunavut land claims agreement was the largest land claim ever settled in Canada. The agreement gave the Inuit people control of more than 350,000 km<sup>2</sup> of land (of which 36,000 km<sup>2</sup> include mineral rights), more than \$14 billion over 14 years, and

guaranteed participation in decisions on land and resource management. In April 1999, in accordance with the agreement, the former Northwest Territories was divided, creating the new territory of Nunavut.

The present population of the NWT is over 42,000. Dene, Inuvialuit and Métis peoples make up 48 per cent, the non-Aboriginal population about 52 per cent. Most live in small communities; Yellowknife, the capital, has a population of 19,000. Before the discovery of diamonds, the economy relied heavily on other resource industries, such as gold and uranium, that were subject to wide fluctuations in world markets. Mining is by far the largest private industrial sector of the NWT economy. Oil and gas are also important. The Aboriginal peoples' traditional subsistence activities — fishing, hunting and trapping — also have an impact on the NWT economy. Sports fishing and big-game hunting play a small role as well. Commercial fishery development in the NWT — freshwater and saltwater — is being encouraged. Fur harvesting continues to be very important, supplementing the income of many Aboriginal families. Tourism is becoming increasingly important.

*Source: Facts on Canada, Communications Canada*

production with an average value of US\$63 per carat, and has a life expectancy of 20 years.

### The Snap Lake Project

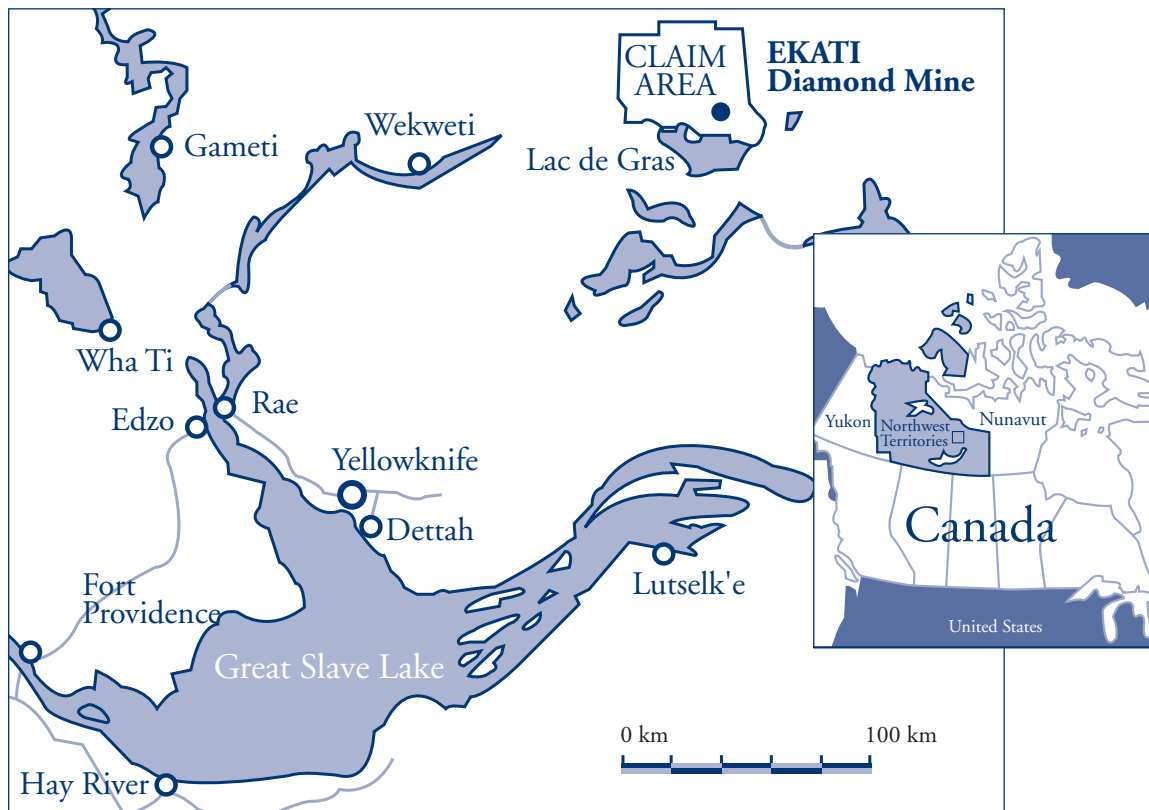
Pre-feasibility studies were conducted at Snap Lake, 200 km northeast of Yellowknife in a joint venture by Winspear Resources and Aber Resources in 1999. The following year, the shares of Winspear were acquired by De Beers, and in 2001 De Beers purchased the Aber interest as well, becoming the project's sole owner. That year, the company submitted project descriptions to the regulatory authorities. The environmental process began in mid 2001, and an 80-person camp was established. Ekati and Diavik are open pit mines, huge craters that dig deep into the kimberlite. Snap Lake, however, will be an underground mine, with an anticipated life

expectancy of 21 years. Production is not expected to begin until 2006.

### Other Diamond Projects

Drilling and bulk sampling by De Beers are under way at Gahcho Kué (Kennedy Lake) in the NWT, and De Beers has additional joint venture exploration projects in Nunavut, Saskatchewan and elsewhere in the NWT. De Beers is also working on the 'Victor Project', 90 km west of Attawapiskat on James Bay in Northern Ontario. The site was discovered in the 1980s, but bulk sampling was not undertaken until 2000. Further study is under way, with results expected early in 2002.

Tahera Corporation's Jericho Project in Nunavut is expected to begin production during the current



decade and the company has joint venture explorations elsewhere in the Arctic. Twin Mining has found diamondiferous kimberlites on the east coast of Ungava Bay in northern Quebec, and various companies are at work on promising sites in the areas around Fort La Corne, Saskatchewan; Buffalo Hills, Alberta; and Wawa, Ontario.

### Regulatory Framework in the NWT

The administration of mineral resources in the NWT is the responsibility of the Canadian Federal Government's Department of Indian and Northern Affairs (INAC). INAC manages the Canadian Mining Regulations (CMR) and the Territorial Lands Act. When the Ekati process began, environmental protection fell under the Canadian Environmental Assessment Act, although greater responsibility has since shifted to the north with the creation of the Mackenzie Valley Resource Management Act.

Economic development in the NWT is the responsibility of the Territorial government. The disjuncture between federal responsibility for mineral resources and territorial responsibility for economic development will become apparent below.

Under what is known as the 'free entry system', any individual over 18 or any company registered in the NWT can obtain a license to explore and stake claims on Crown Land. This right may be modified by Aboriginal land claims that have been settled in the past, but in the diamond areas, land claims have not yet been settled, which has created a wrinkle in the system that will also be described later. Permits to prospect on vacant lands can also be obtained and may be held for up to five years as long as work to a specified value is performed. Depending on the latitude, such permits may cover areas between 20,000 and 71,000 acres. If explorations are successful, the holder may then apply for a mining lease. The actual development of a mine cannot begin until environmental, land and water use permissions have been obtained. If the environmental hearings are favourable, the Minister of Indian and Northern Affairs will approve the project, after which regulators will issue a number of environmental permits (e.g. water intake and discharge, management of waste rock and tailings).

## Issues

### Direct Benefits - Cash

Direct benefits accrue to the federal government through royalties, and through corporate and personal income tax. Royalties are based on a formula contained in the Canada Mining Regulations and may be as high as 14 per cent of sales. A detailed formula for deductions and writeoffs is included in the regulations.<sup>2</sup> Federal revenues are estimated to be C\$4.4 billion over 25 years from the Ekati mine alone, while the net fiscal benefit to the Government of the NWT (GNWT) is estimated at only eight per cent of this.<sup>3</sup> The low return to the NWT results from the absence of a territorial sales tax and one of the lowest income tax rates in Canada - ironically pegged low in order to attract industry to an inhospitable climate. It is also the result of a long-standing arrangement between the Federal Government and the territories, which have always been the beneficiaries of transfer payments from the centre. With diamonds coming on stream, and with the prospect of major revenues from oil and gas, the possibility of an end to, or even a reversal of, transfer payments arises.

There is a considerable difference of opinion between Ottawa and Yellowknife as to which party benefits most from the diamonds. The Canadian Arctic Resources Committee (CARC), an NGO concerned with environmental protection and economic development in the north, accuses the Federal Government of 'regulatory capture' - a term used to describe the phenomenon of an industry agenda becoming government agenda - at a time when the Department of Indian and Northern Affairs (INAC) was considering how to revise the mining royalty regime. In other words, CARC argues, the Canadian Government made a bad deal on royalties. Ekati and Diavik are expected to earn four times what the Federal Government will, and Ekati is projected to pay off its entire capital investment within the first three to four years of operation. A CARC report says that 'Northerners are understandably upset that the issue of fair distribution of revenues has yet to be dealt with and that their share of those and other benefits is

minimal at best.'<sup>4</sup> Federal authorities are equally adept at producing statistics to show that the GNWT and local communities benefit fairly from the arrangements have been made.

### Direct Benefits - Impact Benefit Agreements

The GNWT and various Aboriginal groups approached the discovery of diamonds and the arrival of multinational mining corporations very differently from the way they might have in the past. During the 1970s, extensive hearings were held into the possible development of an oil and gas pipeline through Aboriginal land. The subject was contentious, the hearings were acrimonious, and in the end a 10-year moratorium was placed on pipeline construction, pending the settlement of Aboriginal land claims.<sup>5</sup> During the process, Aboriginal people in the North demonstrated a new political capacity, and were reacting, in part, to a history of spectatorship and of non-participation in the use of their land for the benefit of others. Then, in 1984, the first land claim settlement in the NWT was agreed and others followed. These helped to build new political and economic awareness, and a new willingness to participate in the economic development of the region if genuine benefits could be demonstrated. In other words, between the mid 1970s and the mid 1990s, there had been the development of a more sophisticated and articulate Aboriginal civil society, one that was conscious not only of its rights, but of its potential.

Other events added to this new climate. One was a major decline in the gold mining industry during the 1990s, and a concomitant loss of jobs. Another was the division of the NWT into two political units, with the new territory of Nunavut taking many government jobs away from Yellowknife to the new capital at Iqaluit. Without new investment, therefore, the NWT faced serious economic decline. A final point that made Aboriginal leaders more proactive in their dealings with the diamond mining firms was the advent after the 1970s of what are known as Impact Benefit Agreements (IBA).

The settlement of land claims and the 1982 amendment to the Canadian Constitution to ‘recognize and affirm’ Aboriginal rights meant that Aboriginal communities were both expected and empowered to negotiate directly with resource development companies. The Nunavut Land Claim Settlement of 1993 enshrined the concept of the IBA and gave it a basis in law in that jurisdiction. When BHP arrived in the NWT, therefore, there was a new climate, new needs, and a new model for negotiation. BHP is said to have entered into the IBA process somewhat reluctantly. Perhaps the Aboriginal expectations and demands were high. Whatever they were remains veiled in secrecy, as the content of the various agreements remains confidential. But the Aboriginal groups obtained some of the best legal and negotiating advice available, and drove a hard bargain. Under discussion were provisions for employment, training, scholarships, economic opportunity and direct cash payments. Such was the strained state of negotiations on the IBAs in 1996 that the Minister for Indian Affairs and Northern Development said the water license for Ekati would not be approved unless there was ‘significant progress’ on negotiations within 60 days. Whether or not this had the force of law behind it, the tactic worked and the agreements were concluded.

### Direct and Indirect Benefits - Socio-Economic Agreements

Responsibility for getting the most out of the arrival of the new diamond mining firms was not left to local communities alone, however. The GNWT has concluded specific and detailed socio-economic agreements with both BHP Billiton and Diavik, ‘to ensure that training, employment and business opportunities are made available to Northern residents, [to] protect and promote the wellness of any affected peoples or community, and to minimize any adverse social impacts of the Project.’<sup>6</sup> In the case of BHP Billiton, these included, inter alia, the following provisions:

- during the construction phase, 33% of total employment was to be made up of Northern residents, including contractors. Aboriginal

employment would make up at least 44% of the Northern resident employment;

- during the operations phase, Northern resident employment would be 62% until the mine reached 18,000 tons per day, and then it would rise to 72%. Aboriginal employment must equal at least 50% of the Northern Resident component;
- during construction, Northern businesses were to supply 28% of total annual goods and services delivered and this was to rise to 70% during the operations phase.

Additional provisions were made for training, the awarding of scholarships, support to local business, and the benchmarking of socio-economic indicators, including the average income of residents, rates of high school completion, teen birth rates, property crimes, suicides and so on. A detailed reporting and monitoring mechanism was put in place. And provision was made for BHP Billiton and the GNWT to meet with local communities to discuss the annual report that BHP Billiton was to prepare on the achievement of targets.

After three years of mining, the results at BHP Billiton are encouraging. The employment quotas have been met or exceeded, and turnover rates, at seven or eight per cent per annum, are low for the industry and for the region. Contracts for services have been ‘unbundled’ - divided into smaller agreements - so they can be handled by smaller companies, and many new Aboriginal companies have been established as a result. There are 12 people in the company’s training department, and BHP Billiton helped to establish a local nonprofit organization, the NWT Community Mobilization Partnership to provide ‘job readiness training’ and to help in the development of businesses and business opportunities. This organization has provided training to more than 700 individuals, and receives support from the federal and territorial governments as well as from local communities and businesses.

The Diavik Socio-Economic Monitoring Agreement is similar to that signed by BHP Billiton, but it includes as signatories representatives of different Aboriginal bands, and provides for an Advisory Board with representatives from these bands, as well as from government and Diavik. As of August 2001, it had met its employment targets and had made contract commitments of \$608 million to Northern companies out of a total of \$794 million. Aboriginal companies had received 58% of the total, higher than projected in the socio-economic agreement.

## Value Added Cutting and Polishing

From the outset, the GNWT wanted to encourage the creation of diamond-related industries, and set its sights on the potential for cutting and polishing. There was already a small cutting and polishing industry in other parts of Canada, but nothing in the north. The establishment of a cutting and polishing industry presupposes a steady supply of rough diamonds, and at the beginning of negotiations BHP Billiton was opposed, intending to sort and sell all of its diamonds in Antwerp, or to De Beers in London. Negotiations became difficult until the Territorial Minister of Resources threatened to impose a mining tax 'that would choke a mule'. BHP Billiton subsequently agreed to make up to 10% of its production, by value, available to local firms for cutting and polishing. BHP has become both supportive and accommodating and is, in the view of one local observer, 'the oxygen in the chamber' of this secondary industry. Three firms have now been established, all using slightly different startup methodologies.

The first was Sirius Diamonds, a Canadian-owned company, which began production in 1999. It brought in trainers from the US, Belgium and South Africa, and currently has about 25 employees, of whom four or five are Aboriginal. Sirius has spent considerable resources promoting its 'Polar Bear Diamond', engraving the company name and a tiny polar bear image on the girdle of each diamond. The second cutting and

polishing firm was Deton'cho Diamonds, with majority ownership by the Yellowknives Dene. They employ about 20 Northerners, half of them Aboriginal, and market their diamonds through a variety of wholesalers and retailers.

The third was Arslanian Cutting Works, which formed a joint venture with the Dogrib Rae Band. An old name in the European diamond business, Arslanian brought in 19 master cutters from Armenia to get production off the ground early, adding apprentices as it developed. In addition to marketing diamonds under its own name, Arslanian markets an agreed amount of its production as Ekati Diamonds, in conjunction with BHP Billiton.

Cutting and polishing yields the lowest margins in the entire pipeline of diamond production. Given the relatively high cost of labour in the NWT - as compared with other polishing centres in Asia and Africa - and the complete absence of any familiarity with diamonds in the mid 1990s, something special was going to be required in order to make this business profitable, especially because the NWT could not hope to compete with labour costs in Asia and Southern Africa. Several things have been done in order to help:

- BHP Billiton agreed to provide stones between one and four carats in weight. Larger stones bring higher prices and are more likely to contribute to commercial success;
- the GNWT provided term loans, guarantees and contract security bonding for local firms where these were not otherwise available;
- the GNWT provided financial assistance for development costs, market development and skills development;
- the GNWT provided financial assistance in the form of a wage subsidy for trainees and apprentices.

In addition, a diamond polisher course was developed at Yellowknife's Aurora College in conjunction with the

mining firms, the cutting and polishing industry, the territorial government, and with external advice from Belgium's Diamond High Council<sup>7</sup> and the Flemish Community Education Department. This course, taught by a South African expert, is one of the first of its kind in the world, with a formal curriculum and a written as well as practical performance review.

Worker retention is an issue. While the idea of working in the diamond industry may at first seem romantic (and indoor work in the North is highly desirable), sitting at a polisher's wheel all day is not everyone's idea of a good job. Wages are as good as, or better than in other trades, however, and once a polisher reaches professional standards of efficiency, wages can actually be very competitive. Reaching those levels is a matter of time, and until enough do, the issue of profitability will remain in question. In reality, this could take four to six years.

Today there are approximately 60 - 80 jobs in the cutting and polishing industry. The factories have not yet been able to take up their full allocation of diamonds from BHP Billiton, but that was anticipated. When Diavik begins production, more cutting and polishing factories are also expected, and existing businesses will likely have a wider source of supply. Considerable effort has gone into the marketing of Northern diamonds, and this is helping to develop a cachet and a market niche in Canada and in the United States. New cuts have been developed - the Canadian Fine Cut, the Canadian Ideal Cut, the Dene Rose. And a rigorous government certification system (described below) provides the customers of participating firms with the only meaningful guarantee throughout the diamond industry that the diamonds being sold are what they purport to be.

## The Environment - A Little Diamond Mining on the Side

The environment is a major preoccupation of Northerners concerned about the impact of exploration, mining and other construction projects in a fragile ecosystem. Both federal and territorial govern-

ments have placed much greater emphasis on the environmental impact of such projects in recent years. As noted above, BHP Billiton's Environmental Impact Statement, submitted to the Environmental Assessment Review Panel, consisted of eight volumes and weighed 64 pounds. The subsequent Environmental Agreements, signed with the Canadian and Territorial governments in January 1997, include an environmental management plan with 13 sub-plans to manage and protect air, land, water, fish and wildlife in the claim block and beyond.

In order to monitor the agreements and the impact of the mine, an Independent Environmental Monitoring Agency (IEMA) was established as a non-profit organization based in Yellowknife, drawing expertise from a range of Canadian environmental individuals and bodies. Each year BHP Billiton must submit a report to government on its compliance with the environmental agreements, and each year the Monitoring Agency issues its own annual report (as well as interim reports on detailed subjects) on both the mine and the governmental regulatory bodies which are charged with enforcing the agreements.

The IEMA has not reported any major environmental problems, but it has undertaken a series of studies and made recommendations on the aquatic effects of mining, the impact of the mine on wildlife, sewage effects, waste rock management and reclamation research. The IEMA costs about C\$500,000 per annum to operate, and BHP Billiton's own environmental efforts and studies are undoubtedly extensive. As one company official puts it, 'Ekati is a big scientific experiment with a little diamond mining on the side.' A major part of the environmental effort is to ensure that local people are heard, and that they understand and approve of what is happening.<sup>8</sup>

Diavik has taken a different approach, in response, it says, to criticism that the IEMA is too aloof from the communities it is meant to serve. It has established an Environmental Monitoring Advisory Board which has members from all parties to the agreement, including the company, governments and Aboriginal people.<sup>9</sup>



## Part II: Is Canada Ready for Certification?

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This part of the paper examines how Canada might rate if an international diamond certification system were agreed tomorrow. Such a system would include three aspects:

- Mine to point of export: are the systems good enough to keep illicit goods out of the chain?
- Export arrangements: are Canadian goods moved in a tamper-proof manner?
- Import and afterwards: are the goods that come (back) into Canada clean?

### Mine to Point of Export

At present, there is only one diamond mine operating in Canada. This is in a remote part of the country, with no access to anyone other than company personnel. Fewer than 20 people in the facility have direct sight of diamonds and there are more than 40 security officers at the site. There is careful reconciliation between what leaves the mine and what enters the sorting facility in Yellowknife, 300 km to the south.

There is, however, no systematic government inspection at the mine site. Diamonds from another source could, theoretically, be introduced into the system here. While this is highly unlikely,<sup>10</sup> it is a common way of laundering conflict diamonds in other countries, and if Canada is to meet internationally agreed minimum standards, periodic inspection will likely have to be introduced at this level of the operation.

Once the diamonds reach Yellowknife, they are weighed at each step of the sorting process. Valuation is conducted by an independent valuator contracted by the Department of Indian and Northern Affairs (INAC). The valuator conducts valuations every five weeks, in the presence of government officials.

Everything over 8 grains (2 carats) is noted individually. Customs officials can query and/or reweigh any shipment. The Federal Government (INAC) conducts audits twice a year for royalty purposes, and BHP Billiton conducts its own internal audits. Goods are reconciled at the end of each day of work. All of the diamonds are exported to London or Antwerp, including the 10% by value that eventually return to Canada for local cutters and polishers.<sup>11</sup> Everything that leaves the mine, therefore, leaves the country. There are adequate checks throughout the system to reveal any discrepancy.

With the exception noted, at this level of certification, the Canadian system would meet the most stringent version of the internal controls being discussed in the Kimberley Process.

### The Kimberley Process

The 'Kimberley Process' was initiated by the Government of South Africa in May 2000, in an effort to grapple with the problem of conflict diamonds. Concerned about how diamond-fueled wars in Angola, Sierra Leone and the Democratic Republic of Congo might affect the legitimate trade in other producing countries, more than 35 countries have been meeting on a regular basis to develop an international certification system for rough diamonds. In November 2001, agreement was reached on the principles and many of the details in a system that is expected to begin during 2002. Key provisions on effective and credible monitoring have yet to be agreed, however. NGOs, including Partnership Africa Canada, have been full participants in the process, along with representatives of the diamond industry.

## Export Arrangements

Each package of diamonds is bagged and heat-sealed. In the presence of a customs officer, it is then placed in a container with four company seals as well as a customs seal. There are two padlocks on each package and the keys are never present in Canada. These are retained in London or Antwerp. The goods are transferred from the sorting facility to London and Antwerp by a well-known security transportation firm.

Canadian diamonds do not carry a certificate of the sort described in draft Kimberley Process minimum standards, and at present there is no government department with the authority to issue such a certificate. The certificate of origin is essential to weed illicit and conflict diamonds out of the legitimate system. Customs officials note the value of what is in a parcel, but they cannot 'certify' its origin. Although this would not be difficult to rectify with the involvement of an authorized government agent at each export, it raises an issue of jurisdiction. Currently, no one Canadian government department has overall responsibility for all aspects of the 'diamond file'. INAC's authority ends with the collection of royalties, and does not extend beyond the territories. Where diamonds are concerned, the RCMP has law enforcement responsibilities in the NWT, but not in all Canadian jurisdictions. The Department of Foreign Affairs and International Trade has primary responsibility for negotiating the Canadian position in the Kimberley Process. Other responsibilities fall to the Department of Natural Resources, Statistics Canada and Canada Customs. In order to meet the envisaged international minimum standards, and in anticipation of diamond operations elsewhere in Canada, a central coordinating authority should be designated. This issue should be resolved sooner rather than later.

Belgium's Diamond High Council has assisted in the development of certificates of origin in Angola, Sierra Leone and Guinea. The early development of a Canadian certificate of origin would serve to encourage others in the Kimberley Process to do the same.

## First Import and Afterwards

There are two parts to the issue of Canadian controls at first import and afterwards. The first relates to diamonds re-imported to Canada by BHP Billiton for two Canadian cutting and polishing firms - Arslanian Cutting Works and Deton'cho Diamonds Inc; the second relates to all the rest.

### Arslanian and Deton'cho

Under the terms of its agreement with the GNWT, BHP Billiton provides up to 10% of their run of mine, by value, to cutting and polishing firms in the NWT. Three firms were recently established in Yellowknife, and two are part of a certification scheme developed by the GNWT. Each company has a standing order for diamonds of a certain size and quality, established against a reference sample of diamonds that is retained at the BHP Billiton sorting facility in Yellowknife. After the diamonds have been sorted in Antwerp, the portion allocated to the NWT is returned to the sorting facility. There, in the presence of GNWT officials, the packages are opened and the allocation is made. Each diamond is weighed and described individually before allocation, and its progress through the cutting and polishing process is auditable by GNWT officials. Each diamond is then 'Gemprinted', a process of measuring, describing and registering the brilliance points of a polished diamond using a laser refraction technique. This diamond or any other can later be measured against this unique description by anyone with Gemprint equipment.<sup>12</sup> A unique number is also laser printed on the girdle of each diamond. This and the Gemprint description are registered with the GNWT, which then issues a certificate of authenticity, certifying that the diamond was 'mined, cut and polished in the Northwest Territories'.

Arslanian goes one step further with some of its diamonds, marketing them in an agreement with BHP Billiton as 'Ekati Diamonds'. These are probably the first polished diamonds in the world that can be identified as coming from a specific mine.<sup>13</sup> They demonstrate that the origin of a polished stone can be determined, and that at least one mining firm is prepared to guarantee it. Longtime industry

watcher Chaim Even-Zohar says, 'It surely will just be a matter of time before the human rights NGOs will want every mine to do likewise.'<sup>14</sup>

Because Arslanian and Deton'cho use no other diamonds than those provided by BHP Billiton, and because the system is rigorously monitored by government officials throughout the process, the GNWT certificate is currently the only one in use today - anywhere - that comes close to guaranteeing the origin of a polished diamond. Close, but not close enough. The one gap in the system is the period when the diamonds are beyond GNWT inspection in Antwerp. At this stage, other goods could be introduced into the system, before the return to Canada. Although this is a real gap, it is not very wide. The diamonds that return must match the reference sample retained in the BHP Billiton sorting facility. In addition, the Yellowknife firms are using only larger stones, between one and four carats, which are more difficult to disguise than a standard mixed assortment.

One way to close this gap would be to retain the 10% local allocation in Canada, releasing it to the firms prior to the overseas shipment. The argument against this is that the sort in Yellowknife is what is known as a 'riffle sort', a preliminary screening which is completely detached from detailed valuation. Local cutters and polishers are entitled to their allocation only after a full sort has been conducted in Antwerp. If a more sophisticated sort was done in Yellowknife, this would change matters. The GNWT hopes this will happen in due course, but enough sorters must be trained to the appropriate level.

The GNWT does not certify all diamonds produced by Arslanian and Deton'cho. It only certifies those that 'meet the high standard of cut and other requirements established by the GNWT'. Diamonds that do not pass the quality inspection, are not certified. This is perhaps a mistake. The GNWT certificate was developed in 1999 before the issue of conflict diamonds became prominent. The original purpose of the certificate was to certify quality as much as anything else. Now, however, its certification of origin is

at least as important, if not more so. The two purposes should be de-linked, and all diamonds, where possible should be certified for origin. A second certificate could be issued attesting to origin and quality for those that meet expectations.

### The Sirius Wrinkle

The third Yellowknife polishing firm, Sirius Diamonds, does not participate in the government certification program, although it receives its diamonds in the same way as the other two. It is currently in a legal dispute with the GNWT over its use of a polar bear logo which it engraves on the girdle of each diamond. Sirius issues its own 'Certificate of Origin' which states that each diamond 'has been mined in Canada and cut with precision to the world's highest standards.' Although there is no reason to doubt the first part of the claim, it cannot be verified in any way. The same is true of HRA Investments Ltd., a Vancouver-based company which purchases rough diamonds from BHP in Antwerp, and polishes the stones in Canada with a maple leaf logo on the girdle.<sup>15</sup>

### All the Rest: Statistics

A major issue in the effort to keep conflict diamonds out of the legitimate trade has to do with statistics. Many of the countries that mine, trade and finish diamonds produce no public statistics on trade or production. This has allowed major discrepancies between the exports of one country and the imports of another to take place, and only detailed investigation has brought the anomalies to light.<sup>16</sup>

Canada, like many other countries, does not normally publish trade and production statistics if only one or two companies are involved, because this might give others proprietary or commercially sensitive information. Normally, at least three companies of a similar size would have to be involved in a business before statistics would be made public. In the case of diamond production, however, the Federal Government has signed an agreement with BHP Billiton - the only diamond mining company currently in production - allowing for the publication of their production figures.

**Canadian Diamond Mining Production, 1997-2001**

	1997	1998	1999	2000	2001 (to 30 June)
Production (Cts)	0	203,000	2,429,000	2,558,000	1,528,480
Value (C\$)	0	40,775,000	606,254,000	638,161,000	n.a.

Source: Natural resources Canada, [www.nrcan.gc.ca/mms/efab/mmsd](http://www.nrcan.gc.ca/mms/efab/mmsd).

These diamonds are all exported to Britain and Belgium, and as noted above, a small percentage are later returned to Canada for cutting and polishing in the NWT - probably about \$10 million by value in 2000 and triple that in 2001. The total Canadian import of rough diamonds in 2000 was \$80 million, mostly from Israel, India and the United States. Exports of rough diamonds from Canada, over and above those going from BHP to Belgium and Britain, totalled \$6.8 million.<sup>17</sup> This means that approximately \$63 million worth of rough diamonds was absorbed in 2000 by that part of the Canadian cutting and polishing industry that operates south of the Northwest Territories.

This is at least double, however, if not triple the capacity of all cutting and polishing firms outside the NWT combined. There are two possible explanations. The first is that there is something wrong with the statistics. The second is that a lot of rough diamonds are disappearing from the statistical radar. Whatever the answer, the Canadian diamond industry and the Canadian government should be interested in finding a solution.

Of additional interest are trends in rough diamond imports. Imports from Israel increased by almost 300 per cent between 1998 and 2000, and imports from India more than doubled between 1997 and 2000. The total of all rough diamonds imported into Canada also doubled between 1997 and 2000, but there is no indication that the cutting and polishing industry grew at anywhere near that rate.

There are additional problems with statistics. Canada records its exports of rough to Belgium under the HS (harmonized system) code 710210: diamonds,

unsorted, not mounted or set. The Belgian import numbers from Canada under this code cannot be reconciled, because Belgium records them mostly as HS 710231: diamonds, non industrial, unworked, not mounted or set (i.e. 'unworked' as opposed to 'unsorted'). The Canadian diamonds that return to Canada are recorded as imports under HS 710210 (still 'unsorted'), while in Belgium, they are recorded under a third code, HS 710239: diamonds, non industrial, worked, not mounted or set (i.e. now 'worked').

This seems like (and is) a technical discussion, and in broad terms is not very important because the total Canadian Belgian diamond trade statistics can be reconciled to plus or minus 15%. This difference can be explained by different time periods, exchange rate fluctuations, changes in valuation and so on. There may very well be no major issue here aside from the different ways in which diamonds are categorized from one country to another. But as long as there is confusion in the statistics, loopholes exist for those who might use a country like Canada for illicit trafficking. Confusion similar to that in the Canada-Belgium trade statistics can be found in Canada-UK and Canada-EU diamond trade statistics.<sup>18</sup>

Would Canada meet the proposed minimum standards on statistics proposed in the Kimberley Process? The short answer is yes. Most of the statistics are currently available on the Internet in considerable detail - exports and imports by country, both nationally and by province. These figures are available in Canadian and US dollars. Information on exports and imports by carat is only available on the Internet for annual mining production figures. Full details, including value and weight, can be obtained by purchasing the Canadian edition of the World Trade Atlas, for

approximately C\$2100.<sup>19</sup> Although finding details is time consuming at present, it would be a small matter for Canada to extract diamond production and trade statistics in whatever detail might be required, and to produce a stand-alone report similar to that produced today by Belgium.

The longer answer, however, is no, Canada would not meet the minimum standards because Canadian statistics cannot be reconciled in sufficient detail with those of other countries. The issue of statistics has been discussed at length in the Kimberley Process. The illustration here reflects a Canadian issue which is overdue for serious attention. It is also an international issue, requiring much better harmonization of the so-called Harmonized System, and a much more open and transparent approach to the overall publication of diamond trade statistics, if the industry is to be protected from those who might use diamonds for illicit purposes.

### Other Controls

Canada has very few other controls or systems to monitor the import and movement of diamonds beyond those that are mined in the country. Canada Customs has no specialized knowledge of diamonds outside the NWT, there is no dedicated port of entry or diamond regulatory body. There is no diamond-specific legislation. Although Canada Customs can call in expertise, it has no in-house way of knowing whether a diamond entering the country is what its importer claims it is. Diamonds are usually recorded by customs just as the importer declares them. Diamonds can, in any case, be imported from any country except those under specific UN Security Council embargo, with or without documentation to support claims of origin. If diamonds are seized by customs for any reason - such as under-declaration of value - they may be released on payment of a fine.

This approach did not pose a major problem as long as the cutting and polishing industry remained small, but quite apart from initiatives in the NWT, the industry and the consumer base are growing. In 2000, Canada imported C\$334 million in rough and pol-

ished diamonds, an 86 per cent increase in four years. Canadians are said, in fact, to be the world's top diamond consumers on a per capita basis.<sup>20</sup>

There were no cutting and polishing enterprises in Canada ten years ago; now there are at least ten and perhaps as many as 20, although all of those located outside the NWT are much smaller than the NWT firms. As noted above, there is a statistical issue which makes it impossible to capture information on what these companies are doing. There is no system of reporting on where their goods come from or go to; no system of determining whether the value and weight of rough entering their premises is what comes out; no system of reconciling imports of rough diamonds with the overall output of legitimate cutters. There have been recent changes in the Canadian Criminal Code which allow the police and courts to take diamonds more seriously than other non-lethal commodities, but no permits are required to buy, sell, process or be in possession of rough diamonds. There is no tracking of the equipment required to cut and polish diamonds - much more difficult to conceal than diamonds themselves. The hole is big enough to admit a wheelbarrow load of conflict diamonds, and it is getting bigger.

Canadian law enforcement agencies argue that diamond-specific legislation is required in order to protect the Canadian industry and to offset the potential for laundering and other criminal activity. They point out that in South Africa there are as many as 1000 diamond-related arrests each year under the Diamond Act, and few under the criminal code.<sup>21</sup> In fact, most diamond-producing jurisdictions, except Canada, have some diamond-specific legislation. The criminal code alone is inadequate to deal with the complexity of the issue. Recent Canadian incidents include offers to sell misrepresented goods as Canadian - a case of Angolan diamonds appearing in Manitoba, an illicit offer from South Africa, and others. In a February 2001 report, the Canadian Intelligence Security Service warned of the potential for corruption and infiltration by transnational criminal elements, which could in turn pose serious threats to the stability of

the northern regions and consequently Canada's national security.<sup>22</sup>

There is another reason for worry. Where diamonds are concerned, Canada is perceived to be 'clean'. This may be why it is becoming an attractive location for new cutting and polishing industries. A vague definition of what constitutes a 'Canadian diamond' has, until recently, allowed newcomers to piggyback on the marketing efforts and the publicity around the certification system initiated by the Government of the NWT. Producers took advantage of the 'Canadian' cachet by creating labels such as 'Polar Star' and 'Maple Leaf' - in some cases cutting diamonds in Canada, in others not. In the absence of a sound definition and a proper audit trail, illicit diamonds could easily be finished in Canada and marketed as Canadian, taking advantage of the Canadian reputation as 'clean'. This opened a variety of possibilities: if Canadians could laser polar bears, snow geese and other Canadiana on diamonds, so could South Africans, Israelis and Mauritians.

In September 2000, the Competition Bureau held a consultation and received many representations from the diamond mining and jewellery industries as well as other government departments. The general consensus was that to be 'Canadian' a diamond had to be mined in Canada.<sup>23</sup> In November 2001, the Competition Bureau clarified the rules for marketing Canadian diamonds, stating that 'a diamond can only be advertised as a "Canadian Diamond" when it originates from Canadian soil. Foreign diamonds, cut and polished in Canada, do not qualify as "Canadian diamonds".'<sup>24</sup>

This effectively means that there are no *de jure* Canadian diamonds, because all Canadian diamonds go straight from the mine to London or Antwerp, after which the audit trail effectively goes cold. As the manager of one Canadian firm told the Bureau, 'Importers of Canadian rough processed overseas *cannot verify its origin*.'<sup>25</sup> (Emphasis in the original.) He said that for real assurance, the Canadian Government would have to 'audit the purchase of rough Canadian diamonds and rough foreign dia-

monds; then compare that ratio to their finished stone inventory.' Another approach would be to audit 'the manufacturer's tracking procedures from purchase to sale, to verify that only Canadian rough gets processed and imprinted with Canadian identification. Due to the potential importance of the Canadian diamond industry, the government must create stiff penalties for misrepresentation of foreign diamonds as "Canadian".' He added that the government's guidelines 'have never been effectively enforced', and suggested the creation of a Canadian Diamond Marketing Board.

## Diamond-Specific Legislation Conflict Diamonds Act

David Pratt, Liberal Member of Parliament for Nepean-Carleton, has introduced a private member's bill into the Canadian legislative system which aims to prohibit the importation into Canada of conflict diamonds. It would allow the government to seize both rough and polished diamonds that are in contravention of the Act,<sup>26</sup> to levy fines up to C\$500,000 and/or to impose prison sentences of up to five years. The proposed 'Conflict Diamonds Act' is modelled in part on similar draft legislation currently working its way through the United States legislature, and it would provide a significant boost to the certification system being developed under the Kimberley Process.<sup>27</sup>

David Pratt has served as Canada's Special Envoy to Sierra Leone on several occasions over the past four years and knows first hand what the impact of conflict diamonds can be. But private member's bills have a way of disappearing in the Canadian legislative system. David Pratt is to be commended for his effort to initiate something that should, in fact - 18 months into the Kimberley Process - be Canadian government legislation already. Should the 'Conflict Diamond Act' fail to pass the considerable hurdles that face any private member's bill, its provisions should be taken up by the Government of Canada without delay, combining them with additional provi-

sions that would spell out the substantiation required in the definition of a 'Canadian diamond', create a licensing scheme for diamond importers, exporters and processors, and establish an auditable chain of warranties for all rough diamonds in Canada.

Canada might then become something of a model, and could offer its experience and its expertise to other countries struggling with similar issues.

### Northwest Territories Diamond Manufacturers Licensing Act

At the end of 2001, the GNWT published a discussion paper on the subject of special legislation for the NWT diamond industry. The paper noted that 'Legislation is common in other diamond jurisdictions. It is used to maximize down-stream benefits and to establish controls or standards for those operating in the industry... Current industry issues such as

the emergence of conflict diamonds and associated illicit activity have highlighted the need for greater transparency and controls.'<sup>28</sup>

The licensing system as proposed would establish minimum levels of expertise, it would certify employees and training programs and it would set minimum security standards. Most interestingly, where the issue of conflict diamonds is concerned, it would ensure the integrity of the NWT industry by requiring proof of origin. The proof-of-origin system would be based on compliance with national and international resolutions, but would, at a minimum, require record keeping of rough diamond purchases, all cutting operations, and sales of polished goods. Records would be available for periodic government inspection. The GNWT Discussion Paper solicits feedback, with a view to making decisions in 2002.

## Part III: Conclusions and Recommendations

The impact of diamonds on the economy of the NWT has been dramatic. Despite the loss of jobs in the gold mining sector and the loss of government jobs to Nunavut, there is essentially no unemployment today in the NWT. All those who want to work, do. The rental vacancy rate in Yellowknife is one per cent. GDP growth for the territory during 2000-2001 was 19.5%, by far the highest in Canada, and well above Alberta which, at five per cent, was next highest. Most of this is a consequence of the diamond industry.

There is a strong sense among the companies, government and local businesses that while the approach to maximizing benefits for the North and for Aboriginal people, and protecting the environment, makes sense politically, it may also - despite initial trepidation by the companies - make good business sense. The alternative to building local capacities, unbundling contracts, training and providing financial assistance would be to move everything in from the South. While this is a tried and true mining company methodology, the NWT experience demonstrates that it is not the only way of doing business, even in a remote area with a small population, low literacy rates and a history of social alienation.

While the approach will likely prove to be sustainable, the advent of new companies - De Beers in diamonds and others in oil and gas - will undoubtedly mean that Northern and Aboriginal hiring quotas will give way to a growing influx of Southerners. This will bring both problems and opportunities, but they will come to an area that is better able to cope with them than it would have been even five years ago. And there will be the challenge of creating new opportunities for the time - two decades from now - when the diamonds may run out.

The experience of the NWT has demonstrated other things. It has demonstrated that a remote,

underdeveloped area, traditionally exploited to the benefit primarily of mining companies, can insist on, and institute a different way of doing things. The socio-economic agreements and the IBAs negotiated by the GNWT, the Aboriginal bands and the mining companies mark a major turning point in the way diamond mining firms operate, and they provide lessons for others. Notwithstanding the nature and location of Canada's diamond mines, these lessons include the following:

- diamond mining firms can and will negotiate socio-economic agreements that benefit local communities;
- the direct employment of local people in mining need not be constrained by low levels of education and literacy; companies can and will negotiate provisions for building local capacities;
- local business can benefit from mining activities, and mining firms can be persuaded to 'unbundle' contracts for a wide variety of services;
- short- and long-term environmental considerations do not have to be an add-on or a luxury; they can be made central to the operation.

The context, however, is important to making these sorts of arrangements work. Among the most important in the NWT are the following:

- good government and good governance. Insistence by the Canadian Government on environmental prerequisites and independent monitoring was key to getting other forms of agreement from the companies;
- insistence by the GNWT that its people benefit from diamonds, unlike the territory's past



experience with gold and other mining. This was a consequence of greater maturity by the territorial government and by much greater participation in government than before by Aboriginal people;

- an engaged, astute civil society: 20 years of fighting what they viewed as inappropriate investment, combined with more than a decade of negotiating land claim settlements, gave the Aboriginal people new skills, a new appreciation of their own potential, a willingness to participate, and the skills to negotiate effectively.

If the Kimberley Process international diamond certification system were to be agreed for implementation tomorrow, Canada would likely pass with reasonably good marks in two areas. Controls between the Ekati mine and the point of export are good, but could be improved with government inspection at the mine. The arrangements for supervising the export of diamonds, and the security arrangements now in place are as good as, or better than those in countries which already issue accepted certificates of origin. The certification system developed by the GNWT is one of the first that comes close to guaranteeing the origin of polished diamonds.

There is an issue, however, of departmental jurisdiction that must be resolved before a Canadian certificate of origin can be issued. Without major additions, Canada would comply with the certification arrangements being discussed in the Kimberley Process. General statistics on production, import and export are somewhat difficult to extract from Canadian data, but they are available, and could be adapted to any proposed format.

Where Canada falls down is on the import side. There is a problem in reconciling detailed diamond trade data with other countries, one which creates a gap in the ability to capture essential information on Canadian imports of rough diamonds and how these imports are used. There are virtually no controls around, or knowledge of, diamonds that are not mined in Canada. There is no diamond-specific legislation dealing with

this growing side of the Canadian industry, and no way of verifying what a 'Canadian diamond' is. There is, in addition, a proliferation of industry certificates which prove nothing, but which benefit from the 'clean' Canadian reputation and promotion by the GNWT of its own diamonds and certification scheme. Carelessness on this side of the equation creates potential for criminal activity and potential for real damage for Canada's fledgling cutting and polishing industry.

## Recommendations

1. Canada should develop a national certificate of origin for rough diamonds, similar to those in use elsewhere. This will require enhanced government inspection at the mine site and early resolution of issues related to overall departmental jurisdiction over diamonds.
2. The NWT certificate of origin is compromised by the removal of all Canadian diamonds to Europe for sorting. The origin of Canadian diamonds can only be guaranteed if sorting takes place in Canada under government auspices, and if allocations are made to Canadian cutters and polishers from that sort. The sorting of rough diamonds for the Canadian cutting and polishing market should be upgraded in order to make the GNWT certificate of origin foolproof.
3. The GNWT should consider delinking the two purposes of its current certificate - origin and quality. A certificate of origin is the first and most important requirement for all diamonds cut and polished in the north. An additional certificate of quality could be issued separately.
4. Canadian diamond trade statistics cannot be reconciled at various levels of the Harmonized System of trade data. This is a Canadian and an international problem, one that requires serious attention both in Canada and in the Kimberley Process if illicit and conflict diamonds are to be expunged from international trade. Canada should set its own statistical house in order and promote the development of a

harmonized and transparent system of diamond production and trade statistics through the Kimberley Process.

5. The import of rough diamonds should be reconciled with exports and with the Canadian capacity for cutting and polishing. Current anomalies compromise the Canadian diamond industry.
6. Canada should begin to publish diamond production and trade statistics by value and weight in a more accessible form than currently prevails. This would encourage other countries participating in the Kimberley Process to do the same.
7. The Federal Government should give urgent attention to the need for diamond-specific legislation. This would require the development of greater diamond expertise within Canada Customs, the creation of a single entry point for imported rough and polished goods, and a system which would permit the monitoring and tracking of rough diamonds in Canada through an auditable chain of warranties.

The Federal Government should also initiate legislation in support of the Kimberley Process, to prohibit the importation of conflict diamonds should the Pratt 'Conflict Diamonds Act' not move forward.

8. Without clear standards of substantiation and proof, the new definition of a 'Canadian diamond' means that there can be, in effect, no diamonds that are verifiably Canadian available to consumers. The Canada Competition Bureau should establish such standards in order to protect the Canadian cutting and polishing industry.
9. Several departments of the Canadian Government, the Government of the Northwest Territories and others are developing important and useful knowledge about benefits, protection and regulation in the diamond industry. Canada should share its experience and its knowledge with other countries as part of its contribution to international development and cooperation.

# Notes

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- <sup>1</sup> The story of Canadian diamond exploration is told in *Fire Into Ice: Charles Fipke and the Great Diamond Hunt*, Vernon Frolick, Raincoast Books, Vancouver, 1999. See also *Barren Lands: An Epic Search for Diamonds in the North American Arctic*, by Kevin Krajik, Henry Holt, New York, 2001.
- <sup>2</sup> Territorial Lands Act, Canada Mining Regulations, Updated to April 30, 2001 <http://laws.justice.gc.ca/en/T-7/C.R.C.-c.1516/163590.html>.
- <sup>3</sup> Government of the Northwest Territories, Resources, Wildlife and Economic Development, 'Diamond Facts 2000/01: NWT Diamond Industry Report', Yellowknife, 2000.
- <sup>4</sup> O'Reilly, Kevin, 'Staking Our Claim: Reform of Northern Mining Law', *Northern Perspectives*, Vol. 25, No. 3, Fall-Winter 1998-99.
- <sup>5</sup> The story of the Mackenzie Valley Pipeline and the Berger Commission Enquiry can be found in *Northern Frontier, Northern Homeland*, Report of the Mackenzie Valley Pipeline Enquiry, Minister of Supply and Services, Ottawa, 1977.
- <sup>6</sup> 'Socio-Economic Agreement, BHP Diamonds Project', made between GNWT and BHP Diamonds Inc., Oct. 22, 1996.
- <sup>7</sup> Belgium's Diamond High Council represents and promotes the diamond industry in Belgium and abroad.
- <sup>8</sup> Annual reports of the Independent Environmental Monitoring Agency can be found at [www.monitoringagency.net](http://www.monitoringagency.net).
- <sup>9</sup> Diavik has an excellent website which includes details of several of the socio-economic and environmental agreements that it has made: [www.diavik.ca](http://www.diavik.ca).
- <sup>10</sup> Non Ekati diamonds would most likely be quickly noticed during valuation. Diamonds mined from the newly opened Misery pipe are noticeably different from those from the first Panda pipe.
- <sup>11</sup> 35% of BHP Billiton's production is sold to De Beers in London; the rest is marketed directly from a BHP Billiton facility in Antwerp.
- <sup>12</sup> Gemprint is a Toronto-based company. The majority of the company is owned by the New York-based CVF Technologies Corp. More than 500 Gemprint machines are now in use in North America, Europe, South Africa, Australia and elsewhere. The equipment costs about US\$7500 per unit. A polished diamond can be Gemprinted (i.e. measured) in less than a minute and its unique characteristics are then entered into a global data base. The technology is used by jewellers, law enforcement agencies, diamond traders and others to create a chain of evidence and a historical record for each diamond that is registered.
- <sup>13</sup> De Beers millennium diamonds were guaranteed to come only from De Beers, and even this much is not necessarily assured in De Beers new marketing of polished diamonds in conjunction with LVMH.
- <sup>14</sup> *Diamond Intelligence Briefs*, Vol. 16 No. 330, April 20, 2001.
- <sup>15</sup> In 2001, Papillon Gemme, a Quebec company, cut and polished a small diamond originating from bulk sampling done by Twin Mining Corporation's Torngat operation in the Ungava Peninsula - an example, perhaps, of things to come.
- <sup>16</sup> This issue is discussed at length in *The Heart of the Matter: Sierra Leone, Diamonds and Human Security*, by Ian Smillie, Lansana Gberie and Ralph Hazleton, Partnership Africa Canada, Ottawa, 2000.
- <sup>17</sup> Statistics are derived from Industry Canada: [http://strategis.ic.gc.ca/sc\\_mrkti/tdst/tdo/tdo.php](http://strategis.ic.gc.ca/sc_mrkti/tdst/tdo/tdo.php) and refer here to HS codes 710210, 710221 and

710231, the codes agreed by the Kimberley Process as comprising the definition of rough diamonds.

<sup>18</sup> The author is very grateful to Statistics Canada for their detailed assistance on the issue of statistics.

<sup>19</sup> The World Trade Atlas produces statistics in a standard format for about 40 countries, including South Africa, Australia, Belgium, UK, Switzerland, Russia, Canada and the United States. The Canada-Belgium trade statistics are drawn from World Trade Atlas figures for both countries.

<sup>20</sup> Krajick, *op cit*, p. 8.

<sup>21</sup> The South Africa Diamond Act is expected to be replaced soon by a new Mineral Development Act. Like the one it replaces, the new act, *inter alia*, requires licenses or permits to possess, buy, sell or process rough diamonds.

<sup>22</sup> Canadian Security Intelligence Service, 'Crime in the African Diamond Industry - Implications for Canada', Report #2000-1/47, February 2001. Although this is a 'secret' report, the citation is

from a version obtained under the Access to Information Act.

<sup>23</sup> The written submissions in the consultation can be found at <http://strategis.ic.gc.ca/SSG/ct01250e.html>; from there the trail is easy enough to find.

<sup>24</sup> Government of Canada Competition Bureau, News Release, Nov. 13, 2001

<sup>25</sup> Submission from Todd Wasylyshyn, Manager of Diamori Ltd., Edmonton, to the Competition Bureau, Sept. 15, 2000.

<sup>26</sup> The 'Conflict Diamond Act', Bill C-402, had its first reading on Oct. 18, 2001.

<sup>27</sup> The 'Clean Diamond Trade' Bill passed the US House of Representatives on Nov 28, 2001 but was stalled in the Senate.

<sup>28</sup> 'Government of the Northwest Territories, 'Proposal for a Northwest Territories Diamond Manufacturers Licensing Act; Discussion Paper', Yellowknife, October 2001, p. 6.



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