

# Fugitives and Phantoms: The Diamond Exporters of Brazil

## Summary

Brazil's diamond sector is in crisis. Three of the country's largest diamond producers and exporters have been arrested and are now facing an array of criminal charges. A joint task force of Brazil's Federal Police, Federal Public Prosecutor's Office and Internal Revenue Service have alleged that the three are behind a mega scheme for smuggling diamonds using fraudulent Kimberley Certificates.

According to police, the smuggled diamonds come partly from domestic *garimpeiro* production, partly from Indian reserves where diamond mining is outlawed, and partly from Africa.

The head of Brazil's National Department of Mineral Production (DNPM) in Minas Gerais – responsible for issuing Kimberley Certificates – has also been arrested. He too, is facing charges, and has been fired from his post as Minas Gerais director.

Diamond exports have been suspended while Brazil's Federal Police investigate the fraudulent export of nearly US\$3 million dollars worth of diamonds by Hassan Ahmad, owner of a Belo Horizonte firm called Primeira Gema. This fraud, involving Brazil's Kimberley Certificate 64, was first uncovered by Partnership Africa Canada (PAC) in May 2005.

## The Kimberley Process

The Kimberley Process began in 2000 in an effort to end wars in Africa that were fuelled by "conflict diamonds". A series of intergovernmental meetings in which NGOs and industry played a key role led to the creation of the Kimberley Process Certification Scheme (KPCS) for rough diamonds, starting in January 2003. The KPCS is legally binding in more than 40 diamond producing and processing countries, plus all those represented by the European Union. Essentially, no rough diamonds can be traded among or between these countries unless they are accompanied by a government-issued Kimberley Process Certificate stating that the diamonds are clean. The certificate is backed by a system of internal controls in each country, designed to give each certificate meaning. In many cases, however, internal controls remain weak.

Within the National Department of Mineral Production (DNPM), a special committee has been charged with examining the circumstances of Certificate 64 and making a report on the fraud by the middle of March 2006.

The US\$ 3 million Certificate 64 fraud, however, is but the tip of the iceberg. Further investigation by PAC has uncovered a wealth of evidence proving that for diamond exports from Brazil, fraud is not the exception, but the norm.

In this report, PAC reveals that the same never-worked mining claims listed as the source of the diamonds in the US\$3 million Certificate 64 scam are also given as the front for the diamonds in other fraudulent exports of nearly equal value.

Furthermore, according to the DNPM's own statistics, the *garimpeiro* who owns these claims is Brazil's 6<sup>th</sup> largest diamond producer, responsible for 8.14% of Brazil's production in 2004. PAC's research reveals that this miner – who never once in his life touched a shovel – has been dead since 2001. In other words, Brazil's 6<sup>th</sup> largest diamond producer is a ghost.

Brazil's fourth largest diamond producer, PAC also reveals in this report, is an indigent vagrant from São Paulo. In 2004, this phantom drifter produced nearly US\$3.5 million worth of diamonds, 16.37% of Brazilian production, all of it exported with government issued Kimberley Certificates, none of them worth the paper they were printed on.

Brazil's second largest diamond producer is a company named S.L. Mineradora, Ltda. Its owner, Paulo Traven of Juina, Mato Grosso, recently surrendered to Brazil's Federal Police, after spending a week as a fugitive on the run. After spending five days in jail, he was released, facing a variety of charges related to the illegal export of diamonds.

On the production side, PAC reveals that some 25% of Brazil's diamond production by value came from fraudulent sources, and left the country with fraudulent Kimberley Certificates. Another 19% came from a source – Paulo Traven – who is now under criminal investigation. According to the production statistics, then, nearly 44% of Brazil's diamond production came from fraudulent or deeply suspect sources.

The export statistics tell a similar tale. In this report, PAC reveals that some 53% of Brazil's exports by value in 2004 were the work of one man with a history in the African diamond trade, Hassan Ahmad. PAC demonstrates that Ahmad was almost certainly the perpetrator of the fraud involving Certificate 64. He, too, recently surrendered to Federal Police after spending a week on the run. He, too, is facing charges. Given this, there is good reason to suspect the legitimacy of Ahmad's other diamond exports.

The production statistics, the export numbers, and PAC's research all point to one conclusion: 50% of Brazil's diamond production comes from fraudulent or highly suspect sources; one in two Brazilian Kimberley Certificates is probably false. Half the country's diamond exports are the work of fraudsters, fugitives and phantoms.

In this report, PAC makes a number of recommendations for short, medium, and long-term reform of Brazil's system of internal diamond controls.

## Good Intentions Ignored

In May, 2005, Partnership Africa Canada released a report entitled *The Failure of Good Intentions: Fraud, Theft and Murder in the Brazilian Diamond Industry*<sup>1</sup>. The report was an overview of the Brazilian diamond industry and its development since Brazil entered into the Kimberley Process in August 2003.

The report acknowledged the difficulties faced by Brazil's Ministry of Mines and Energy (MME) and National Department of Mineral Production (DNPM) in bringing order to the country's diamond fields. Shallow, widespread and alluvial, Brazil's diamond deposits have historically been difficult to control. By best estimates, some 80-90% of Brazilian production is in the hands of unlicensed, unregistered *garimpeiros* or hand-miners.

Where they had proved effective, the PAC report lauded the efforts of the DNPM and MME in helping *garimpeiros* to obtain legal mining title, the prerequisite under Brazil's Kimberley regime for the legal sale and export of diamonds with a Kimberley Certificate.

However, the report also severely criticized many aspects of the Kimberley certification system designed by the

Ministry of Mines and implemented by the DNPM. Under the Brazilian system, legal export of diamonds with a Kimberley Certificate was tied to possession of a legal mining claim. Most of Brazil's diamonds, however, are produced by *garimpeiros* working in areas to which they have no legally registered title. In order to cover the export of these paperless stones, Brazilian diamond traders were thus required to fabricate some sort of legitimate looking paper trail.



*Most Brazilian diamond mining is done by garimpeiros or hand-miners*

Mid-level buyers began manipulating the numbers on official receipts, inflating the carat count on those few diamond purchases that sprang from a legitimate claim, in order to cover the much larger quantity of stones coming from areas for which *garimpeiros* had no legal title. Exporters with their own mining areas continued buying from *garimpeiros* as before, but now claimed that all the stones were part of their own in-house production. Exporters without mining areas began creating mining claims in the names of fictitious parties, in order to create a 'legitimate' source for their exports. Though clearly that was not their intent, Brazil's MME and DNPM had created a system that actively encouraged fraud.

While exporters were forging or manipulating receipts, the DNPM itself, in processing and issuing Kimberley Certificates, seemed to be making only a token effort at oversight. In processing Kimberley Certificates, the only important criterion for the DNPM seemed to be the existence of a chain of receipts back to a registered min-

ing claim. As long as that paperwork was there, in the application, the DNPM routinely made little or no effort to determine whether that paperwork corresponded to any reality on, or in the ground.

The DNPM, for example, routinely made no effort to verify whether the receipts comprising the paper trail were real or forged. Verification is not, it should be noted, a particularly difficult task. A company's official receipt normally lists the corporate address and telephone number. A quick call to the company comptroller would thus have been enough to verify whether Company X had indeed recently spent half a million dollars on diamonds.

Financial transactions are not the DNPM's specialty, of course, but the organization did no better when it came to the geology. The sudden rise in diamond yield shown by certain exporters with in-house production – a sign that those exporters were likely concealing *garimpeiro*-bought diamonds within their own production – raised no eyebrows at the DNPM.

Worst of all, perhaps, the DNPM expended little or no effort determining whether a legal mining claim listed as the source of the diamonds – the *sine qua non* of a Kimberley Certificate in Brazil – could even produce diamonds. In several cases, mining claims in areas of improbable geology, areas that had never been worked for any mineral, were listed as the source of tens of thousands of carats.

These were not minor occurrences. Two such un-worked areas near Diamantina in Minas Gerais are officially listed as the source of 8.14% of Brazil's 2004 production. Another equally pristine *garimpeiro* claim in the same area is listed as the source of another 16.37% of Brazil's diamond exports. To date, PAC has been able to determine that at least 24.41% of Brazil's diamond exports come from phony *garimpeiro* claims.

As these results indicate, the system devised by the Ministry of Mines and implemented by the DNPM was designed not for real oversight, but to provide token compliance with Brazil's responsibilities under the Kimberley Process. It was a system only on paper, designed largely for show.

In its analysis of Brazil's Kimberley System, PAC argued that creating a system that inherently required corruption on the part of Brazil's diamond buyers and exporters was not good public policy. The techniques of smuggling and

financial slight-of-hand developed to disguise diamonds of *garimpeiro* origin could and likely would be put to use to export stones mined illegally within Brazil's Indian reserves. These illicit systems might well also be put to use to provide a covering of legal paper for diamonds smuggled in from Africa.

The DNPM, PAC suggested, was inviting trouble. It would only be a matter of time before diamond traders overseas with a need to find a legitimate channel for dubious stones discovered the laxity of Brazil's Kimberley system, and decided to take advantage.

### Frauds and Suspicious Circumstances - P. Traven and the Treasure of the Corrego São Luís

In addition to broad policy objections, PAC's report pointed to specific companies and circumstances that were highly suspicious, and in one case PAC presented concrete evidence of fraud.

In Juina, Mato Grosso, PAC pointed out the curious circumstances surrounding the operations of S.L. Mineradora Ltda, a company owned by Paulo Cavalcante Traven. The diamonds found in the Juina area are generally of low value, industrial grade browns and yellows for the most part. Despite these unpromising circumstances, S.L. has been highly successful. The company is listed as the second highest producer in 2004, when it produced R\$11.43 million worth of diamonds. .

S.L. Mineradora's fortunes are even more curious when compared to another company in the Juina area, Diagem do Brasil Ltda. The Brazilian branch of Diagem International Resources Corporation, a company headquartered in Montreal, Canada, Diagem has several mineral claims in the Juina area. In one area on the Corrego São Luís, Diagem and SL Mineradora have mining areas in close proximity on the same river, in areas with nearly identical geology. In interviews with Diagem's geologists, the company reported yields from this site on the order of 0.2-0.5 cts per cubic metre of ore. A manager of S.L. Mineradora, by way of contrast, reported regularly achieving yields of from 2-5 cts per cubic metre, 10 times that of Diagem. S.L.'s production also contained a significant proportion of higher value gem quality stones. The vast difference in yields and stone quality was surprising, to say the least.

There was one other difference between the two companies. In interviews with Juina area *garimpeiros*, the owner of S.L. Mineradora, Paulo Traven, was referred to as a frequent buyer of *garimpeiro* stones. Diagem was not. Traven is also known personally to one of the mining chiefs of the Cinta Larga people, inhabitants of the Roosevelt Reserve, one of Brazil's richest sources of alluvial diamonds. In interviews with a team from PAC, the chief in question reported having visited Traven at his home on several occasions.

Long before *The Failure of Good Intentions* was published, PAC reported these circumstances verbally to the head of the DNPM in Mato Grosso state, Jocy Gonzalo de Miranda. They were dismissed as spurious. No irregular certificates have ever been issued from this office, de Miranda said at the time.

### Certificate 64 Fraud

In Minas Gerais, PAC presented concrete evidence of fraud. On August 19, 2004, the DNPM issued Kimberley Certificate 64, covering 6876.92 carats of diamonds exported by Primeira Gema, a Belo Horizonte company owned by Hassan Ahmad. Certificate 64 was a clear and evident case of fraud, PAC wrote in its report, for the simple reason that the two *garimpeiro* claims listed as the source of the diamonds in the Kimberley application showed no sign of ever have been mined for anything.

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These findings, too, were presented to the head of the DNPM in Minas Gerais, Emanuel Martins, again long before publication, again to little effect. Now that that the diamonds have left the country, Martins said, there is not much we can do about it. Nor, according to Martins, did the DNPM have any plans to change their processing procedures, even in light of this fraudulent export.

## PAC's Recommendations

PAC's report, *The Failure of Good Intentions*, made nine specific recommendations for reform. In the short term, PAC suggested, the DNPM should review the certificates it had already issued, in order to determine just how widespread fraud had become. To prevent further such occurrences, DNPM technicians in charge of processing Kimberley Certificates should leave their offices and get out into the field, to verify diamond sources first hand.

In the longer term, PAC suggested the DNPM should move away from the idea of basing legal export on possession of a legal mineral claim. Most of Brazil's diamonds are produced by *garimpeiros*. Most *garimpeiros* do not have legal mineral claims, nor is there any prospect that the majority will obtain such claims any time soon, despite a serious and well-intentioned project by the DNPM designed to help move *garimpeiros* onto legal mineral claims. (After nearly two years of work by some of the DNPM's most senior staff, that program has resulted in the creation of no more than a score of new *garimpeiro* claims.)

Instead, the DNPM should consider a system of certification by regional origin. Local *garimpeiro* cooperatives could be instrumental in making this system work. The DNPM should reach out to these local co-ops — who know those mining locally, and where they are mining — and make them partners in the certification process.

PAC's report was rejected by Ministry of Mines and Energy and the DNPM. The adjunct director general of the DNPM João Cesar de Freitas Pinheiro sent a letter to the Kimberley Process Chair on June 3, 2005, complaining of the report's tone, and alleging that the PAC report contained errors, though without citing any specifically. The DNPM then set out on a rather counterproductive effort to prove that PAC had been mistaken.

Far from disproving PAC's allegations, however, the subsequent DNPM report actually provided independent confirmation by the DNPM itself of what PAC had been saying all along: the *garimpeiro* claims from which the 6876.92 carats exported under Certificate 64 supposedly originated have in fact never been mined for anything. (For details, see The DNPM "Rebuttal" below.)

At no point, apparently, did the DNPM ever make any attempt to investigate PAC's suspicions regarding S.L. Mineradora Ltda in Mato Grosso, or to further investi-

gate the clear fraud surrounding Kimberley Certificate 64. Within the DNPM, no procedures were changed, no further checks were put in place. None of PAC's recommendations for reform were acted upon. All was well, seemingly, and the issuance of Kimberley Certificates continued as before.

## Operation Carbon

Fortunately, others in the Brazilian government, including the Federal Public Prosecutor's Office (*Ministerio Publico Federal*) had also read the report, and took PAC's allegations rather more seriously.

On Friday, February 10, 2006 a joint task force of the Federal Public Prosecutor's Office, the Federal Police and the Brazilian Internal Revenue Service (*Receita Federal*) launched simultaneous raids in Minas Gerais, Mato Grosso and Rio de Janeiro. The operation, code named Operation Carbon, involved nearly 260 Federal Police and 50 agents of the Receita Federal, executing search warrants of 34 locations, and arrest warrants for ten individuals.

Among those arrested was Luiz Eduardo Machado de Castro, the head of the DNPM in Minas Gerais. Also arrested was Vivianne dos Santos, one of Brazil's largest diamond exporters. The principal targets of the operation, however, were two individuals mentioned prominently in PAC's first report: Belo Horizonte diamond exporter Hassan Ahmad, and Juina diamond producer Paulo Traven. Both somehow got wind of the raids and managed to escape arrest.

According to a police synopsis of the evidence, Hassan Ahmad and Paulo Traven, along with the other large diamond exporters of the region, were believed to be running a large scale operation for the illegal export of diamonds. Using dummy corporations, phony front-men, and Brazilian illegal money traders (*doleiros*), Hassan Ahmad and company were suspected of tax evasion, document forgery of Kimberley Certificates, money laundering and corruption of public officials.

Hassan Ahmad and Paulo Traven remained at large for over a week. Traven turned himself in February 15, Ahmad two days later on February 17. Both were arrested and taken to Federal Police headquarters in Belo Horizonte for questioning. The Federal Police, according to reports, were particularly interested in the circumstances surrounding Certificate 64.



PAC, meanwhile, decided to undertake a second study to further investigate the problems inherent in Brazil's Kimberley Process regime. In *The Failure of Good Intentions*, PAC wrote that Certificate 64, far from being an anomaly, was more likely par for the course. This report proves those words to be only too true.

## Dead Man Walking – The Certificate 64 Fraud

Fabio Tadeu Dias de Oliveira was born 17 July 1977 to Dalva Maria Dias de Oliveira and Alvaro Jose de Oliveira. The eldest of three children, Fabio left high school to get a job as a motorcycle delivery boy. He continued to live with his mother in the family home.

From his late teens onward Fabio was involved in several altercations with police. On April 19, 2004, Fabio was arrested in São Paulo's Consolação district on a charge of receiving stolen goods. On November 9, 1996, he was arrested in the Prirituba district for theft. On April 26, 1998, the district was Seasa, and the charge was attempted theft. On March 9, 1999, police in the Lapa district arrest Fabio for carrying an unlicensed firearm. On May 10, 1999, in Parque Taiapós, Fabio was charged with destruction of public property.

Fabio Tadeu Dias de Oliveira died on July 17, 2001, the day of his 24th birthday. His body was processed at the Central Medical-Legal Institute in São Paulo (IML Registry No. 3325/2001). After his death, Fabio's fortunes improved quite markedly.

Sometime in 2003, a man identifying himself as Fabio Tadeu Dias de Oliveira entered the Belo Horizonte office of geologist Carlos Alberto Barone. With him was another man who identified himself as Jose Antonio dos Santos Neto. The two men wanted to file *garimpeiro* claims or PLGs (*Permissão de Lavra Garimpeira*) for areas in the Jequitinhonha river valley north of Diamantina, in the state of Minas Gerais. According to Barone, the men had brought with them the exact geographic coordinates of the claims.

"Fabio" carried with him the two standard pieces of Brazilian identification: a CPF, or Cadastro de Pessoa Física, a kind of Brazilian Social Security Number, and an RG or Registro Geral, a document with the bearer's

photo, thumbprint and date of birth. Jose Antonio dos Santos Neto carried only an RG. Though he had no physical CPF card, he did provide a number.

The man who called himself Fabio, in addition carried with him proof of address, in the form of an electricity bill in his name from Eletropaulo, the electricity utility of São Paulo. Proof of address is a prerequisite for filing a mineral claim. Jose Antonio dos Santos Neto provided none, but geologist Carlos Barone appears to have accepted "Fabio's" proof as good enough for the pair of them.

Barone filled in the appropriate paperwork, collected the required fees, obtained power of attorney for both, and sent them on their way. At that time, a PLG required an environmental approval from the municipality in which the mining would take place. Barone sent a request to a fellow geologist in Diamantina, Marcos Vinicius Cardoso, who obtained the one-page environmental certificates on December 19, 2003.

Barone filed the forms with the DNPM, requesting four PLGs for the two men, on December 30, 2003. The claims were identified by their DNPM process numbers. The PLGs belonging to Fabio Tadeu Dias Oliveira bore numbers 833476/2003 and 833479/2003.

As related in PAC's earlier report, *The Failure of Good Intentions*, the PLGs were approved June 30, 2004. Diamond mining in Brazil is normally a long and laborious process, but not in this case. Starting only eight days later, July 7, 2004, Fabio Tadeu Dias de Oliveira began selling 6876.92 carats of diamonds to Morgan Mineração Industria e Comercio Ltda for a total price of R\$794,608.71 (US\$261,040.88). The transactions were recorded on official receipts (*notas fiscais*) from Morgan Mineração.<sup>2</sup>

Some three weeks after that, beginning July 30, 2004, all of these diamonds were transferred from Morgan Mineração to Primeira Gema Comercio Importação Exportação Ltda, a firm owned by Hassan Ahmad, a Sierra Leonean native of Lebanese descent, resident in Brazil since 1999. The sum of the transactions was 6876.92 cts for R\$2,988,891.94 (US\$981,895.82).<sup>3</sup>

Ten days after that, Primeira Gema sold all 6876.92 carats to Sam Diamonds, of Dubai. According to sources in Dubai, Sam Diamonds is headed by a Canadian named Essam A. Al Sherida. The value of the diamonds, on the official receipt, was US\$2,969,228.11, more than ten

times the supposed price paid by Morgan Mineração. Primeira Gema applied for a Kimberley Certificate the same day. That certificate – Brazil Kimberley Certificate 64 – was issued August 19, 2004. The valuation of the diamonds given on the certificate was for US\$983,188.15<sup>4</sup>. In other words, the diamonds had now dropped in value by a factor of three. The diamonds left the country shortly thereafter, and were hand-carried to Dubai<sup>5</sup>.

PAC's assertion, given in some detail in *The Failure of Good Intentions*, was that this whole series of transactions must have been fraudulent, for the simple reason that PAC had visited the *garimpeiro* claims listed in Certificate 64 as the supposed source of the diamonds, and verified that these mining claims had never before been worked for any mineral, much less 6800 carats worth of diamonds.

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In June 2005, the DNPM rejected these findings. Indeed, instead of investigating the Certificate 64 fraud, the head of the DNPM in Minas Gerais produced a report that attempted to discredit PAC's findings. (PAC's response can be found in *The DNPM "Rebuttal" Report*, below).

Faced with the DNPM's refusal to accept the geological evidence, PAC once again began digging into the Certificate 64 fraud. Once again, PAC uncovered a number of informational nuggets, adding to the growing hoard of evidence that something is seriously amiss, not just with Certificate 64, but with way the DNPM processes and issues Kimberley Certificates, and with the entire Kimberley system in Brazil.

First of all, PAC visited the Minas Gerais state commercial registry in Belo Horizonte, and obtained the names of the owners of Morgan Mineração Industria e Comercio Ltda, supposed purchaser of the diamonds produced by Fabio Tadeu Dias Oliveira. The managing partner of the company is Vinicius Jose Wanderely Costa. Located in an industrial suburb of Belo Horizonte, Morgan Mineração specializes, according to Vinicius Costa, in mineral pigments for use in the steel manufacturing process.

Morgan Mineração, says Costa, has never bought or sold diamonds, not from Fabio Tadeu Dias Oliveira, not to

Primeira Gema, not to or from anyone, at any time, ever. Costa added that for the past three years, his company has had problems with phoney official receipts. "Someone seems to have forged our receipt book," he said.

Subsequently, PAC managed to track down Fabio Tadeu Dias Oliveira, and discovered that in his short life Fabio never possessed any diamonds, never did any diamond mining, never once left the city of São Paulo, and was in any case dead, long before he began a post-mortem career mining and selling diamonds.

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With Fabio long dead and Morgan Mineração credibly denying any connection to the Certificate 64 diamonds, it becomes very difficult indeed for Hassan Ahmad, the owner of Primeira Gema, to explain how and where he got his hands on those 6876.92 carats. PAC's attempts to contact Hassan Ahmad for comment were unsuccessful. Calls to Primeira Gema's office were not answered. Messages left on Hassan Ahmad's cell phone were not returned.

Occam's razor suggests that Hassan is the author of the Certificate 64 fraud, and that he himself invented Fabio. The paper trail backing Certificate 64, certainly, is fraudulent from beginning to end, and the only one who of a certainty ever handled those stones was Hassan Ahmad.

Whoever created Fabio, he was an active little ghost. The Brazil Mining Yearbook, 2005, published by the DNPM, lists the ten largest producers for 2004 in decreasing order of value of production. (The table is reproduced below in *Ghosts in the Machine*). Fabio Tadeu Dias Oliveira, in 2004, ranked 6th in all Brazil, responsible for 8.14% of the country's commercialized diamond production.

Given that is his short and tragic life Fabio Tadeu Dias Oliveira never once left the city of Sao Paulo, and given that there are no diamond mines within Sao Paulo's city limits, Oliveira's name and 6th place ranking on the list of Brazil's principal diamond producers raises some interesting questions.

Certainly, Certificate 64 is not the only fraudulent export perpetrated in Fabio's name. According to The Brazil Mining Yearbook<sup>6</sup>, the total value of commercialized production of diamonds for 2004 was R\$60,409,255.00. Fabio's share, at 8.14%, thus works out to R\$4,917,313.30 or about US\$1.65 million. The total value of the Certificate 64 export was US\$983,188.15. That leaves R\$1,989,279<sup>7</sup> (about US\$ 700,000) of Fabio's production unaccounted for. To cover the export of these diamonds, the DNPM must have issued at least one other false certificate in 2004.

Given that Fabio Tadeu Dias Oliveira was clearly invented by someone for no other purpose than to launder diamonds, and given that in the one documented case, "Fabio's" illegally sourced stones were channelled through Hassan Ahmad's company Primeira Gema, it seems more than likely that much more of the imaginary Fabio's illegal diamond production was also channelled through Hassan Ahmad and Primeira Gema.

This fraud, however, is only the beginning. PAC's investigations have discovered that Fabio is not the only ghost operating within Brazilian diamond exporting machinery. Indeed, this report will show (in *Ghosts in the Machine*, below) that fully 25% of Brazil's diamond exports are the product of such phantom miners. Fully 50% of Brazil's Kimberley Certificates – one in two – are likely fraudulent. This news, PAC sincerely hopes, will be taken more seriously and investigated more thoroughly than was PAC's revelation of the original Certificate 64 fraud.

## The DNPM "Rebuttal" Report

In November, 2005, the Brazilian delegation from the Ministry of Mines and Energy to the annual Kimberley Process Plenary Meeting presented a document entitled *Kimberley Certificate 64: Site Inspection Report*. The report was intended as a rebuttal to the proofs presented by PAC in its report of May, 2005 (*The Failure of Good Intentions*) that Certificate 64 was a fraud, based on chain of ownership claims that were patently false. The Site Inspection report had been prepared by the chief of the DNPM in Minas Gerais, Luiz Eduardo Machado de Castro.

The Brazilian rebuttal was, at its heart, a dishonest and deeply deceptive document. What's more, it achieved exactly the opposite of its intended purpose: rather than proving PAC's

allegations wrong, it provided independent confirmation by the DNPM itself that PAC was 100% correct.

PAC's case against Certificate 64 was based on the chain of ownership documents that form the basis all Kimberley Certificates issued in Brazil. These official sales receipts (*notas fiscais*) purport to track the stones being exported all the way back to the miner or mining firm that dug them from the soil, and the legal mining claim from which they sprang. (The details of this chain of ownership documents can be found in *Dead Man Walking*, above.)

PAC's assertion, given in some detail in *The Failure of Good Intentions*, was that this whole series of transaction must be fraudulent, for the simple reason that PAC had visited the *garimpeiro* claims listed in Certificate 64 as the supposed source of the diamonds, and verified that these mining claims had never before been worked for any mineral, much less 6800 carats worth of diamonds.

Dated October 27, 2005, and presented to the Kimberley Secretariat in Moscow only two weeks later on November 11, 2005, the DNPM's rebuttal report purported to show a great deal of mining activity in areas that PAC had said were virgin. Presented with a wealth of photographs, the rebuttal report showed test holes and loading ramps and shallow pits of considerable extent. The impression was of a well-worked *garimpeiro* site. The only problem was that the photographs were of an area that had nothing to with Certificate 64.

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In addition to the two Certificate 64 PLGs belonging to Fabio Tadeu Dias Oliveira, the DNPM opted to inspect two other nearby PLGs, process numbers 833477/2003 and 833478/2003. These two areas are irrelevant to PAC's case against Certificate 64. They were never mentioned in PAC's original report. They were not listed in any of the DNPM's own documentation relating to Certificate 64.

PAC has since learned that these two extraneous PLGs were obtained by an individual working with the fraudulent ghost miner Fabio Tadeu Dias Oliveira. The man was thus in some way part of the bigger scheme regarding the illegal export of diamonds from Brazil. But given that these PLGs were not part of PAC's report, or the Certificate 64 documentation, it's not clear why the DNPM decided to include them in its "rebuttal".



The DNPM's rebuttal report never explains why these two extraneous PLGs were included, and indeed glosses over their origin in a way that the casual reader – or for that matter, even a very precise and serious reader – is left with the impression that they were among the areas PAC had claimed were virgin territory, and were also a potential source for the Certificate 64 diamonds. Nothing could be further from the truth.

In including these two extraneous PLGs in its report, and glossing over their irrelevance to the Certificate 64 case, the DNPM was being disingenuous, to and beyond the point of dishonesty. More importantly, perhaps, the report was also counterproductive.

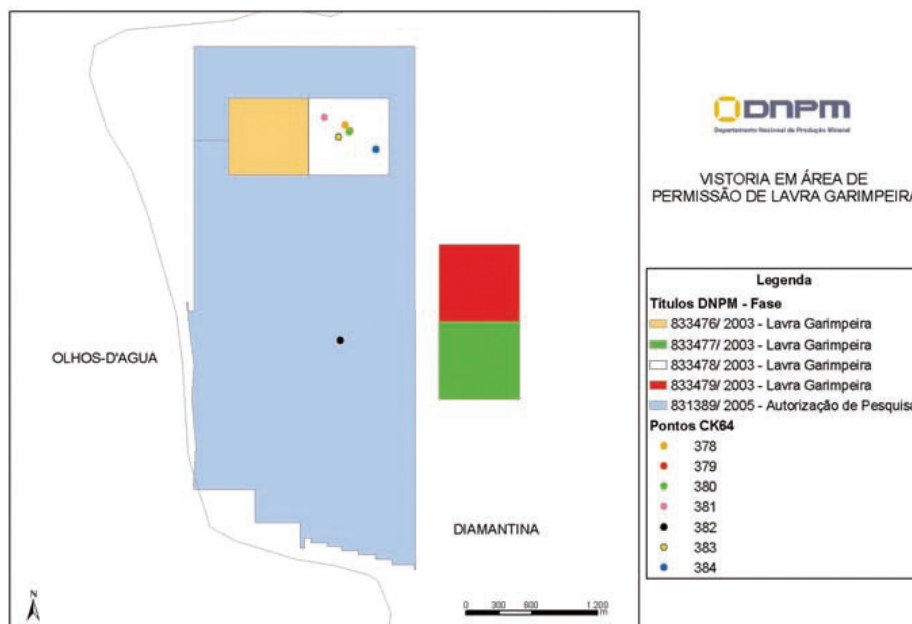
In attempting to discredit PAC's allegations, the DNPM report achieved just the opposite: it provided independent confirmation by the DNPM itself that the two areas from which the 6800 carats worth of diamonds exported under cover of Certificate 64 were said to have originate are, in fact, untouched territory.

The map below, reproduced without modification from the DNPM rebuttal report, shows exactly this. The Certificate 64 areas – process numbers 833476/2003 (brown on map) and 833479/2003 (red on map) – are shown by the DNPM itself to be untouched. The test holes and *garimpeiro* pits shown in such glorious detail in the rebuttal report's numerous photographs are all located on PLG 833478/2003 (white on map), a *garimpeiro* claim taken out in the name of one Jose Antonio dos Santos Neto. This area did not and does not have anything to do with Certificate 64.

On February 15, 2006, PAC visited the area once again in order to lay to rest any doubts about its claim that Certificate 64 was a fraud. PLG 833479/2003 (red on the map; registered to Fabio Tadeu Dias Oliveira; one of the two mining claims listed as a source of the Certificate 64 diamonds) was still, as before, virgin territory. It is located far from the river in a place where, according to any knowledgeable geologist, there was a vanishing to nil chance of finding diamonds. The adjacent *garimpeiro* claim PLG 833477/2003 (green on the map; registered to Jose Antonio dos Santos Neto; not one of the mining claims listed as a source of Certificate 64 diamonds), is similarly situated and similarly untouched.

PLG 833476/2003 (brown on the map; registered to Fabio Tadeu Dias Oliveira; one of the areas listed as a source of Certificate 64 diamonds) is closer to the Jequitinhonha river. It's an area that, according to geologists consulted by PAC, could potentially yield diamonds, but only in very small quantities, at very low yields. That aside, this mining claim has felt neither pick nor shovel in at least a decade. Indeed, the only sign of mineral activity on this entire claim is a small test pit, some 20 metres by 20 metres in area, and perhaps a metre and a half deep, old enough that mid-size trees are now growing up from within the dig.

The only claim in the area to show any sign of mining activity is PLG 833478/2003 (white on the map; registered to Jose Antonio dos Santos Neto; not one of the mining claims listed as a source of Certificate 64 diamonds). This area, as shown in the DNPM report, has several recent test pits, and other shallow digs indicative of *garimpeiro* activity.





*Feb 15, 2006 photograph of the site (PLG 833479/2003) where Fabio Tadeu Dias de Oliveira supposedly mined millions of dollars worth of diamonds in 2004 and 2005*

During PAC's visit, locals in the area suggested that much of the digging had taken place from October through November of 2005, after PAC's first report and about the time the DNPM conducted its own field visit. The work was said to have been done by Belo Horizonte company, RST Recursos Minerais Ltda, doing geological sampling along the Jequitinhonha River.

On February 16, 2006, PAC consulted the Belgian lead geologist for RST Recursos Minerais Ltda, Johan Van der Stricht, who confirmed that the company had dug a small test pit on the site some time in October of 2005. RST conducted the dig not in hopes of finding diamonds, Van der Stricht emphasized, but in order to better understand the geology of the Jequitinhonha valley, as an aid in the company's quest to locate concentrated diamond deposits on the flats by the riverbank.

As for the possibility that some 6800 carats worth of diamonds were extracted from that site, Van der Stricht found it frankly ridiculous. Even at yields of half a carat per cubic meter – unheard of in Diamantina – digging out 6800 carats would have produced a vast pit and a huge mound of tailings, neither of which are in evidence on the site, Van der Stricht noted. And with that kind of yield,

*garimpeiros* from the entire region would have flocked to the site to try their luck. "It would have looked like Serra Pelada," said Van der Stricht, referring to the famous 'human anthill' gold dig in Para state in the 1980s.

On Friday, February 10, 2006 the author of the DNPM rebuttal report, Luiz Eduardo Machado de Castro, was arrested by Brazilian Federal police as part of Operation Carbon, a joint operation of Brazilian Federal Police, Federal Public Prosecutions Office (*Ministerio Publico Federal*), and Federal Internal Revenue Service (*Receita Federal*). He spent five days in detention, and was fired from his position as head of the DNPM in Minas Gerais.

His spell in prison, along with the evidence of the earth itself, would seem enough to cast some doubts on the accuracy and veracity of the DNPM's rebuttal report. Then there is the additional evidence unearthed by PAC's subsequent investigation: the fact that the middleman company Morgan Mineração denies all knowledge of the transaction, and the more startling fact that the titular owner of the *garimpeiro* claims, Fabio Tadeu Dias Oliveira, had himself been two years in the ground when he was supposedly digging up diamonds.

## Ghosts in the Machine

In examining the DNPM table showing Brazil's ten principal diamond producers, three names jump out: S.L. Mineradora, Ltda., owned by the recently arrested Paulo Traven (see *Operation Carbon*, below), Fabio Tadeu Dias Oliveira, a man who died in 2001 (see *Dead Man Walking*, above), and João Barbosa da Fonseca, responsible for 16.37% of Brazil's diamond production in 2004, worth R\$9,888,995.04.

**Table 3.3.1 Principal Production Companies, 2004 (in descending order of value of commercialized production)**

Rank	Name	State	Percentage	Value	Status
1	Gar Mineração Comércio Importação e Exportação Ltda	GO, MG	22.48%	\$13,580,000.52	
2	<b>S.L. Mineradora Ltda</b>	<b>MT</b>	<b>18.92%</b>	<b>R\$11,429,431.05</b>	<b>Fugitive</b>
3	Mineração Rio Novo Ltda	MG	16.95%	R\$10,239,368.72	
4	<b>Joao Barbosa da Fonseca</b>	<b>MG</b>	<b>16.37%</b>	<b>R\$ 9,888,995.04</b>	<b>Phantom</b>
5	Silvanira Marques de Castro	PR	11.47%	R\$ 6,928,941.55	
6	<b>Fabio Tadeu Dias Oliveira</b>	<b>MG</b>	<b>8.14%</b>	<b>R\$ 4,917,313.36</b>	<b>Phantom</b>
7	Arrosensal Agropecuaria e Industrial S.A.	MT	2.48%	R\$ 1,498,149.52	
8	Julio Cesar Ferreira	GO	1.54%	R\$ 930,302.53	
9	Giacampos Diamond Ltda	MG	0.59%	R\$ 356,414.60	
10	Altamiro Ayres	MT	0.49%	R\$ 296,005.35	
*	<b>Total – Fugitives and Phantoms</b>		<b>43.43%</b>	<b>R\$26,235,739.45</b>	

Source: Brazil Mining Yearbook, 2005, [www.dnpm.gov.br/conteudo.asp?IDSecao=68&IDPagina=294](http://www.dnpm.gov.br/conteudo.asp?IDSecao=68&IDPagina=294)

This is not the first year da Fonseca has made the top ten. In 2003, he also ranked fourth, accounting for 12.11% of national production. The curious thing about João Barbosa da Fonseca's consistently high ranking is that, according to the DNPM database of mineral claims, da Fonseca has only one 20-hectare PLG (*garimpeiro* claim). Just for comparison, Mineração Rio Novo, which ranked 3rd in 2004 with a comparable production of R\$10,239,368.72, has a very active dredging operation and nearly 1000 ha under claim.

The PLG claimed by João Barbosa da Fonseca is in the Diamantina area, on the banks of the River Jequitinhonha. The geologist responsible for filing the claim was Marcos Vinicius Cardoso, the same Diamantina geologist who did much of the work on the claims filed by phantom miner Fabio Tadeu Dias Oliveira.

According to Cardoso, he filed the initial claim in 2002 on behalf of another person, a resident of the Diamantina area. The claim was then bought from that person by João Barbosa da Fonseca in late November, 2003.<sup>8</sup> Cardoso claims that was a private deal, one in which he was not involved. "I never met Joao Barbosa, never even saw him," he said in an interview with PAC.

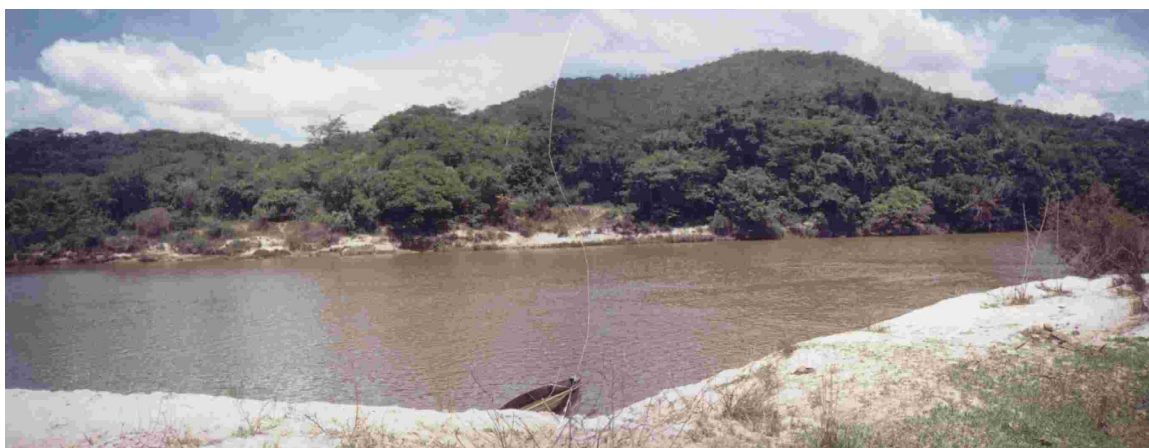
Citing geologists ethics, Cardoso refused to identify his client who sold the PLG on to da Fonseca.

Intrigued by these circumstances, on February 21, 2006 PAC sent a team of geological and land title specialists to inspect and photograph the super-rich diamond PLG claimed by Brazil's most successful *garimpeiro*.

\* This summary line was not in the original table. It was added, for clarity, by PAC

Access to the area turned out to be remarkably difficult. A rancher had placed logs across the road, cutting off access to the site. The team was forced to hire a boatman, and descend the Rio Jequitinhonha by motor canoe in order to reach the *garimpeiro* claim.

The Brazilian media had better luck tracking Brazil's most successful *garimpeiro*. On February 20, 2006, the *Estado de Minas* newspaper published an article headlined "*Waiter is the fourth largest diamond producer in Brazil*". According to the article, based in turn on information



*João Barbosa da Fonseca's supposed multi-million dollar mine site on the River Jequitinhonha.*

As with the claims associated with Certificate 64, the team found the area to be not especially promising diamond terrain. Though situated by the edge of the river, the territory comprised by the claim consists mostly of a small steep rocky outcrop. As with the Certificate 64 claims, João Barbosa da Fonseca's site shows no signs of ever having been worked for diamonds.

Some 400 metres beyond the edge of da Fonseca's claim there was a small, shallow *garimpeiro* site, perhaps 50 metres on a side and a meter or so deep. From appearances, it appeared not to have been worked in at least five years. There were no signs of recent mining, and certainly not the deep pits and vast mounds of processed earth one would expect from a site that, two years running, had supposedly produced on the order of US\$5 million worth of diamonds.

PAC was able to locate a man living in a cabin on the riverside near the site. The man said that some six years ago there had been some *garimpeiros* doing raft mining of the riverbed, but in the past five years there has been no mining activity on or near the site. PAC also spoke to one of the owners of the farm adjacent to the site, Adão Oliveira Lopes, also known as Juvenal, who said that there has been no *garimpeiro* activity on or near the site any time in the past five years. Lopes had no knowledge of anyone named João Barbosa da Fonseca.

from Brazil's internal revenue service (*Receita Federal*), João Barbosa da Fonseca is 48 years old, a native of São Paulo, and employed off and on as a waiter. The address given for João Barbosa da Fonseca on his tax records turns out to be a homeless shelter.

Workers at the shelter remember a João Barbosa da Fonseca, but say he moved out years ago. The likelihood is that someone stole João Barbosa da Fonseca's identification, and used it to stake a phony diamond claim. The real João Barbosa da Fonseca, even if he still among the living, is likely completely unaware of his place among Brazil's top diamond producers. In the normal course of events, indigent waiters do not generate tens of millions in rough diamond production, year after year.

But then neither do dead men. Together, these two phantoms account for 24% of Brazil's 2004 production of diamonds.

The similar pattern of fraud in both cases suggests a common author. An examination of the Kimberley Certificates on file at the DNPM office in Belo Horizonte would show who exported the diamonds "produced" by João Barbosa da Fonseca, and thus who was most likely the author of this second fraud.



## Fugitives – Operation Carbon

On Friday, February 10, the Federal Public Prosecutor's Office, the Federal Police and the Brazilian Internal Revenue Service (Receita Federal) unveiled Operation Carbon, a joint operation targeting what Federal Police were calling a mega scheme for the illegal export of diamonds.

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### Operation Carbon, a joint operation targeting what Federal Police were calling a mega scheme for the illegal export of diamonds.

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Among those arrested was Luiz Eduardo Machado de Castro, the head of the DNPM in Minas Gerais, as well as Viviane dos Santos, and one of Brazil's largest diamond exporters, along with her daughter Patricia Santos and son-in-law Daniel Carneiro Pires

Among those targeted for arrest were Belo Horizonte diamond exporter Hassan Ahmad, and Juina diamond producer Paulo Traven. Both were seemingly tipped off to the impending raid and fled, spending a week as fugitives before turning themselves in, Traven on February 15<sup>th</sup>, Hassan Ahmad on February 17.



*Police surveillance photograph of Paulo Traven meeting with Hassan Ahmad, Confins Airport, Minas Gerais.*

Ahmad claimed he had been on holiday in São Paulo and not heard anything about Operation Carbon. Both were arrested and taken into custody for questioning. Both were later released facing a variety of charges.

According to a police synopsis of the evidence, Hassan Ahmad and Paulo Traven, along with the other large diamond exporters of the region, allegedly made use of phony front men, dummy corporations, and Brazilian illegal money traders (*doleiros*), to illegally export diamonds from Brazil using fraudulently obtained Kimberley Certificates, and to hide the profits from those activities through money laundering and tax evasion.

According to police, Hassan Ahmad, Paulo Traven and Viviane Santos had claimed to have bought diamonds from miners that didn't exist, or from mines that extracted only sand and gravel. The diamonds fraudulently exported by Primeira Gema and Viviane Santos, police further allege, come from three separate sources: Brazilian Indian reservations, where mining is illegal, *garimpeiro* sites, and conflict zones in Africa.

The connection to Africa is both startling and revealing. It is not, however, particularly surprising. In *The Failure of Good Intentions*, PAC noted that while it had found no evidence of diamonds being smuggled in from Africa, it had also found nothing in the Brazilian system to deter this from happening, should anyone care to try. Perhaps someone did.

One of the pieces of evidence collected during Operation Carbon, according to a senior Brazilian official, is a wire-tap recording, of a Brazilian diamond trader allegedly negotiating the delivery of a parcel of rough diamonds being smuggled in from Africa. Police have not revealed the size or the timing of the parcel, or whether the transaction was ever completed.

PAC can only applaud the actions of the Public Prosecutor's Office, Federal Police and Receita Federal in mounting and pursuing this operation. It is a clear sign that some branches of the Brazilian federal government take seriously the task of controlling diamond exports.

That such an operation was necessary was very much an inevitable result of the system put in place by the DNPM. In *The Failure of Good Intentions*, PAC noted that as the Kimberley certification system began to take hold worldwide, unscrupulous diamond traders would begin to seek out and take advantage of those countries whose systems seemed the weakest. This too has apparently come to pass.



According to a senior government source, wiretap evidence collected as part of Operation Carbon has a Brazilian diamond trader engaged in conversation with a diamond dealer in Europe. In this conversation, the Brazil-based dealer brags of having access to Kimberley Certificates “*em branco*” meaning the values are blank and can be filled in with whatever size and type of stones desired. (Effectively true, given the laxity of the DNPM system). Allegedly, the prospect of such easily available certificates intrigues the European dealer, who attempts to convince the dealer in Brazil to use these Kimberley Certificates to launder some of his own rough diamond stock.

What this and the other still emerging evidence of Operation Carbon shows is that, far from being taken advantage of by a sophisticated criminal gang, the DNPM had created a system so fraught with holes that there was an open invitation to step through them. Quite a few individuals appear to have done just that.

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PAC has already shown that, according to figures from the DNPM's mining annual, some 24% of Brazil's 2004 exports by value were fraudulent, while fully 44% were suspect. Table 2 (Appendix 1) provides another view of the size of the problem. This table shows all the Kimberley Certificates issued by the Minas Gerais office of the DNPM from 2003 to mid-2005. Those emitted in the name of Hassan Ahmad of Primeira Gema are flagged.

It will be noted that in 2004, Hassan Ahmad, author of the Certificate 64 fraud, and main target of Operation Carbon, is responsible for 96% of the state's diamond exports by carat volume. Comparing Hassan Ahmad's exports to the value of Brazil's total production from the Brazil Mining Yearbook (R\$60,409,255), reveals that Hassan Ahmad was responsible for some 53% of Brazil's diamond exports by value in 2004.

Given Hassan Ahmad's track record in the Certificate 64 case, and the strong similarities between the source of those diamonds – ghost miner Fabio Tadeu Dias Oliveira and Brazil's 4<sup>th</sup> largest diamond producer, the indigent waiter João Barbosa da Fonseca – there is strong reason to doubt whether many of these diamonds came from

legal areas, and whether many left the country with legitimate Kimberley Certificates.

Hassan Ahmad's company Primeira Gema made a total of 11 diamond shipments with Kimberley Certificates to Dubai, including the shipment covered by Certificate 64. Primeira Gema's diamonds were initially shipped to a Dubai based company named Rilton Traders. In 2004, Rilton Traders was investigated on suspicions of money laundering. The company subsequently closed.

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**Primeira Gema's diamonds were initially shipped to a Dubai based company named Rilton Traders. In 2004, Rilton Traders was investigated on suspicions of money laundering. The company subsequently closed.**

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Photo : Juarez Rodrigues, Estado de Minas

*Hassan Ahmad leaving Federal Police Headquarters after five days in detention. 22 Feb 2006*

## Conclusions

In its last report, PAC found definite proof of one fraudulent Kimberley Certificate, Certificate 64. In this current report, PAC has expanded its estimate of fraud. In this report PAC presented incontrovertible evidence that some 24% of Brazil's 2004 exports were clearly fraudulent. Just over 50% of Brazil's 2004 exports were by a firm – Primeira Gema – clearly implicated in fraud. The owner of Primeira Gema, Hassan Ahmad is the target of a major law enforcement operation targeting diamond smuggling, money laundering, and corruption of public officials.

The head of the DNPM in Minas Gerais, Luiz Eduardo Machado Castro was also arrested by Brazilian Federal police. He has also been fired from his post. Diamond exports from Brazil have been suspended. Within the

DNPM, a special task force has been given until mid-March to investigate the circumstances of Certificate 64. Clearly, however, the problem is far bigger than that one fraudulent export.

In the short term, the DNPM needs to clean house. The organization needs to do a thorough review of all Kimberley Certificates issued in the past three years. In the medium term, the DNPM needs to reform the way it processes and issues Kimberley Certificates. In the longer term, the entire basis underlying Brazil's Kimberley system should be rethought, and re-designed.

## Recommendations

### 1. Investigate all other exports involving Fabio Tadeu Dias de Oliveira (1977-2001).

The DNPM has created a special committee to examine the circumstances surrounding Certificate 64. PAC applauds this effort. But the DNPM should broaden this investigation. Given that Fabio Tadeu Dias Oliveira never once left the city of São Paulo, and given that there are no diamond mines within São Paulo's city limits, Oliveira's name and 6th place ranking on the list of Brazil's principal diamond producers raises major questions. The DNPM should determine how many other certificates were issued with diamonds originating with Oliveira. The investigation should determine which firms were involved as middlemen, and in particular which firms were involved in the export of these stones. The DNPM should report back to the Kimberley Process on how many false certificates have been issued.

### 2. Investigate all exports involving João Barbosa da Fonseca

This present PAC report shows the mining claim of João Barbosa da Fonseca to be an unproductive as that of the late Fabio Tadeu Dias de Oliveira. As João Barbosa da Fonseca is listed as Brazil's fourth largest diamond producer by value, there are undoubtedly numerous Kimberley Certificates that have already been issued covering the export of "his" diamonds. All of these certificates are false. As with the Kimberley Certificates issued in connection with Fabio Oliveira, the DNPM should determine how many additional false certificates were issued, and which firms were involved in these frauds. It should report back with its findings to the Kimberley Process.

### 3. Bring rigour to the processing of Kimberley Certificates

Somewhere between one quarter and one half of the diamonds exported from Brazil leave with Kimberley Certificates that are fraudulent. In other words, at present one Brazilian Kimberley Certificate in two is likely a fake.

If Brazil's Kimberley Process is to have any legitimacy – if Brazil's diamond exports are even to continue – the DNPM must bring rigour to the way it processes and issues Kimberley Certificates. Though PAC believes that in the medium term, Brazil should move away from a system based on mineral title, in the short term the DNPM should begin rigorously verifying the paper trail that purportedly tracks Brazil's diamonds from exporter back to mineral claim.

DNPM personnel must begin doing site inspections of mineral claims. The area listed on the Kimberley application form as the source of the diamonds should be visited by a technician from the DNPM to verify that the site is producing diamonds. (Note that local *garimpeiro* co-operatives could be partners in this work, as they know which areas are producing, and which *garimpeiros* are working there).

In addition, the DNPM should create a database to track the diamond production of each mineral claim. This database would show up obvious frauds, such as one 20ha *garimpeiro* claim emerging as the fourth richest diamond area in Brazil. The database would, over time, also show average production levels, which should deter producers from salting their claims with diamonds obtained from other, illegitimate sources. (The addition of outside stones would show up as a sudden jump in production).

The DNPM must follow the chain of ownership from *garimpeiro* upwards, verifying that each of the purported links in the chain of official receipts has indeed taken part in the purchase and later sale of the diamonds in question.

Finally, the DNPM must develop or contract the services of someone who can provide accurate diamond valuations. As it stands, the value of the diamonds being exported is just what the exporter says it is, no more, no less. The DNPM lacks the expertise to contest these claims, or to provide alternate, more accurate valuations. This undoubtedly encourages tax evasion, leading to lost government revenue. What's more, it renders Brazil's export statistics, submitted yearly to the Kimberley Process, if not of dubious value, then less useful than they might be.

#### 4. Reform the system for issuing Kimberley Certificates in Brazil.

Looking at the figures for diamond production in Brazil, one sees that almost half – 44.5% – of Brazil's diamond production by value in 2004 is of questionable origin. A full quarter – 24.4% – of Brazil's diamond production by value in 2004 originated from sources that are clearly fraudulent. Another 18.92% was produced by a company under investigation by Federal Police. Looking at the figures for Kimberley Certificates from Minas Gerais, one sees that over half (53%) of Brazil's diamond exports by value in 2004 were shipped from the country by a company shown to have perpetrated at least one major fraud.

It would seem clear from this data that the system determining the origin of diamonds in Brazil – and thus for issuing Kimberley Certificates – quite simply doesn't work. The DNPM and MME need to do more than just tinker with this system. They need to reform it.

As a starting point, the DNPM should abandon their current fixation on legal mineral title, which works to punish Brazil's *garimpeiros*, the most vital and resilient part of the Brazilian mining landscape. There is simply no way, in either the short or medium terms, that the vast majority of *garimpeiros* will ever manage to obtain legal mining claims. Nor will *garimpeiros* cease to mine and sell diamonds. *Garimpeiros* dig up some 80-90% of the diamonds exported by Brazil each year. Better to work with them, than against them.

Because they are so ubiquitous in Brazil's diamond producing areas, *garimpeiros* and *garimpeiro* leaders are also an excellent network for gathering information. *Garimpeiros* know who is digging where, and which areas are producing. The DNPM should reach out to this leadership, and try to make them partners in the process of certifying Brazil's diamond exports. In place of specific mineral title, Brazil could move to a system of regional origin, with local *garimpeiro* co-ops certifying that the diamonds in question did indeed originate with a *garimpeiro*, in the local area.

Though this system, too, might be subject to corruption or abuse, the fact is that with one Brazilian Certificate in two currently not worth the paper it's printed on, the DNPM could hardly do worse.

#### 5. Export Statistics

Brazil's diamonds vary widely in size and quality. Some are very high quality, while many are low-grade industrials. The exports recorded by the Minas Gerais office of the DNPM (see Appendix) demonstrate the range, but they also raise questions. Many shipments between mid 2003 and mid 2005 show a per carat average value of more than \$2000, four have per carat values of more than \$3000, and one 204 carat shipment had a per carat average of \$6370. In fact 13 out of 61 KP certificates recorded values of more than \$1000 per carat, somewhat unusual, given that half of the 61 certificates recorded values of less than \$100 per carat, and an average of only \$37.85. There is, in fact, such a wide gap between the low-end diamonds and the high-end goods – with almost nothing in the mid range – that questions arise about whether the stated values bear any relation to reality. The question is validated by the particular discrepancy between the invoice value and the value stated on Certificate 64 (a shipment to a company named Sam Diamonds in Dubai invoiced at \$2.9 million but valued at only \$983,000 on the KP certificate).

In their investigations, Brazilian authorities should attempt to ascertain the extent to which false valuations are being used – as a possible means of laundering money, tax evasion, or concealing the true origin of diamonds.

Any changes to Brazilian KP export regulations should include regular professional valuation of diamonds being presented for export.

#### 6. Recommendations to the KP and KP Participants Trading with Brazil

Most of Brazil's diamonds in 2004 and 2005 were exported to the EC, Israel, the United Arab Emirates and the United States. There are significant differences between the export figures of Brazil and the import figures of the United States and Israel in both years. Given the findings of PAC and the Brazilian police, given the tremendous differences in per carat value averages in Brazilian shipments, and given the particular discrepancy between the invoice value and the value on Certificate 64, it is recommended that the Kimberley Process and the relevant Participants each undertake a full review of all Brazilian diamond transactions over the past two years.

## 7. Recommendation to the Kimberley Process

It is evident from the Brazilian experience that a well designed system of internal controls is not the same thing as an *effective* system of internal controls. It is fair to ask whether a “standard” KP Review Visit would have found the problems identified in PAC’s 2005 Report. It is also fair to ask whether the Review Visit that was planned for April 2006, before the current scandal erupted, would have investigated the PAC allegations and the DNPM’s ultimately bogus October 2005 report to the KP Plenary. We should perhaps not speculate on what might have happened, but we can recommend two things:

1. The planned KP Review Visit should be postponed until after the current DNPM and Brazilian police investigations have been concluded. The review visit should then ascertain whether the action taken by Brazilian authorities is sufficient to prevent a recurrence.
2. All future KP Review Visits and Review Missions should test a Participant’s internal control system to ensure that genuine and rigorous verification of chains of warranty, mining production claims, company audits and identity checks are being carried out. Each KP Review report should contain a statement that such tests have been carried out, and that the Participant’s systems meet KPCS minimum standards.

## Appendix I

**Table 2: Kimberley Certificates Emitted from the Minas Gerais office of the DNPM.**

Year	Certificate No.	Carats	US\$	US\$/ct	Exporter
2003	1	136.65	\$ 300,943.72	\$2,202.30	
2003	3	123.83	\$ 399,454.67	\$3,225.83	
2003	5	685.20	\$2,108,594.68	\$3,077.34	Hassan Ahmad - Primeira Gema
2003	10	5526.24	\$1,468,820.31	\$ 265.79	Hassan Ahmad - Primeira Gema
2003	11	3340.71	\$ 304,800.00	\$ 91.24	
2003	12	94.88	\$ 68,088.74	\$ 717.63	
2003	13	6613.35	\$ 674,784.00	\$ 102.03	Hassan Ahmad - Primeira Gema
2003	14	5250.06	\$ 133,515.00	\$ 25.43	Hassan Ahmad - Primeira Gema
2003	15	5823.46	\$ 5,823.46	\$ 1.00	Hassan Ahmad - Primeira Gema
2003	16	5147.01	\$ 5,147.01	\$ 1.00	Hassan Ahmad - Primeira Gema
2003	17	362.13	\$ 6,588.22	\$ 18.19	
2003	17	363.82	\$ 108,411.78	\$ 297.98	
2003	18	6163.35	\$ 674,784.00	\$ 109.48	Hassan Ahmad - Primeira Gema
2003	19	154.65	\$ 325,000.00	\$2,101.52	
2004	25	351.00	\$1,000,000.00	\$2,849.00	
2004	26	649.00	\$ 587,380.00	\$ 905.05	
2004	27	7336.00	\$ 921,224.00	\$ 125.58	Hassan Ahmad - Primeira Gema
2004	28	7304.00	\$ 331,576.41	\$ 45.40	Hassan Ahmad - Primeira Gema
2004	29	60.27	\$ 35,000.00	\$ 580.72	
2004	30	1122.35	\$ 124,000.00	\$ 110.48	
2004	34	5951.80	\$1,349,889.00	\$ 226.80	Hassan Ahmad - Primeira Gema
2004	35	6112.73	\$ 445,027.00	\$ 72.80	Hassan Ahmad - Primeira Gema
2004	36	6405.76	\$ 611,231.00	\$ 95.42	Hassan Ahmad - Primeira Gema
2004	38	135.10	\$ 9,970.00	\$ 73.80	
2004	39	204.05	\$1,300,000.00	\$6,370.99	
2004	41	6525.60	\$1,495,939.40	\$ 229.24	Hassan Ahmad - Primeira Gema
2004	43	3684.26	\$ 326,673.92	\$ 88.67	Hassan Ahmad - Primeira Gema
2004	44	6452.13	\$ 370,303.40	\$ 57.39	Hassan Ahmad - Primeira Gema
2004	47	196.79	\$ 690,000.00	\$3,506.28	
2004	48	5546.46	\$1,170,686.81	\$ 211.07	Hassan Ahmad - Primeira Gema
2004	49	6472.34	\$ 116,502.12	\$ 18.00	Hassan Ahmad - Primeira Gema
2004	50	5474.19	\$ 253,993.80	\$ 46.40	Hassan Ahmad - Primeira Gema
2004	51	188.20	\$ 600,000.00	\$3,188.10	
2004	52	5373.50	\$ 530,395.65	\$ 98.71	Hassan Ahmad - Primeira Gema
2004	53	212.40	\$ 386,000.00	\$1,817.33	
2004	55	5469.88	\$ 82,048.20	\$ 15.00	Hassan Ahmad - Primeira Gema



2004	56	5334.68	\$ 80,020.20	\$ 15.00	Hassan Ahmad - Primeira Gema
2004	57	5990.58	\$ 302,484.98	\$ 50.49	Hassan Ahmad - Primeira Gema
2004	54	6167.42	\$1,560,182.65	\$ 252.97	Hassan Ahmad - Primeira Gema
2004	58	1261.92	\$ 81,000.00	\$ 64.19	
2004	61	207.00	\$ 550,000.00	\$2,657.00	
2004	62	277.34	\$ 600,000.00	\$2,163.41	
2004	64	6876.92	\$ 983,188.15	\$ 142.97	Hassan Ahmad - Primeira Gema
2004	65	4163.68	\$ 41,638.80	\$ 10.00	Hassan Ahmad - Primeira Gema
2004	66	5033.76	\$ 40,099.44	\$ 7.97	Hassan Ahmad - Primeira Gema
2005	68	434.23	\$ 303,961.00	\$ 700.00	
2005	69	143.28	\$ 35,000.00	\$ 244.28	
2005	71	3173.00	\$ 17,451.50	\$ 5.50	Hassan Ahmad - Primeira Gema
2005	72	9275.00	\$ 37,563.00	\$ 4.05	Hassan Ahmad - Primeira Gema
2005	73	9025.00	\$ 36,551.00	\$ 4.05	Hassan Ahmad - Primeira Gema
2005	74	7150.00	\$ 178,750.00	\$ 25.00	Hassan Ahmad - Primeira Gema
2005	75	7222.27	\$ 180,556.75	\$ 25.00	Hassan Ahmad - Primeira Gema
2005	76	6855.75	\$ 102,836.00	\$ 15.00	Hassan Ahmad - Primeira Gema
2005	77	5654.14	\$ 188,401.00	\$ 33.32	Hassan Ahmad - Primeira Gema
2005	78	4685.18	\$1,118,320.20	\$ 238.69	Hassan Ahmad - Primeira Gema
2005	79	44.31	\$ 14,179.00	\$ 320.00	
2005	80	22.81	\$ 19,252.00	\$ 844.02	
2005	96	5272.53	\$ 450,888.00	\$ 85.52	
2005	97	9577.00	\$ 40,702.00	\$ 4.25	
2005	108	33.84	\$ 40,644.00	\$1,201.06	
2005	110	51.02	\$ 200,000.00	\$3,920.03	

## Notes

- <sup>1</sup> Available at [www.pacweb.org](http://www.pacweb.org), in English and Portuguese.
- <sup>2</sup> As recorded by the official receipts, Oliveira sold the diamonds to Morgan Mineração in three lots: the first lot, sale dated July 7, 2004, was 3296.06 cts for R\$380,362.82 (R\$115.40/ct). On July 8, 2004, the sale was for R\$265,855.18 (2285.55ct at R\$116.32/ct). On July 9, the sale was for R\$148,390.71 (1295.31ct at R\$114.56/ct). The total of the three sales was 6876.92 carats, for R\$794,608.71 (US\$261,040.88).
- <sup>3</sup> The official receipts in this case are dated July 30, 2004 and August 2, 2004, and are for R\$1,440,575.98 (3296.06 cts at R\$437.06/ct), R\$993,482.87 (2285.55ct at R\$434.68/ct) and R\$554,833.09 (1295.31ct at R\$428.34/ct).
- <sup>4</sup> The difference between the diamond value on the official sales receipt –US\$ 2.9 million– and the value on Kimberley Certificate 64 – just under US\$ 1 million – is curious, to say the least. PAC has been unable to obtain any further explanation for the discrepancy.
- <sup>5</sup> Some years after publication, Mr. Al Shereida contacted PAC to say that, when working for Sam Diamonds in Dubai in 2004, he did receive such a shipment from an unknown person. According to Mr. Al Shereida, he returned the package to Dubai airport customs. Mr. Al Shereida further says that, at the request of the Brazilian government, the Dubai authorities investigated the matter and eventually closed the case, by which time the Sam Diamonds company itself was closed.
- <sup>6</sup> Table 3.2.1
- <sup>7</sup> Using the exchange rate of August 19, 2004
- <sup>8</sup> The change of ownership request was filed with the DNPM November 27, 2003. This is close to the same time period in which the phony Fabio Tadeu Dias Oliveira filed his mining claims (December 30, 2003).



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