Diamond Industry Annual Review

Introduction

There are two dates that matter to me in the history of Angola: 1975, when we convinced the Portuguese to leave our country, and 2002, when the war finally came to an end. When you judge what we've done, our success, remember that we've only been at this for five years.

Manuel Francisco Gomes Maiato, Governor of Lunda Norte

The Angolan civil war began even before independence in 1975, and raged, albeit with periods of calm, until 2002. The formal Angolan diamond industry came to a virtual standstill, paralysed at first by the departure of technical personnel during the Portuguese exodus, and later as UNITA guerrillas drove off foreign companies and took control of Angolan's rich diamond provinces, mining the diamonds illegally, using the revenue to continue the civil war.

The implementation of international controls on these conflict diamonds helped starve the rebel forces of funds, leading eventually to the defeat of Jonas Savimbi and the end of the civil war. Only with the end of that long conflict have the government and its foreign partners had the security to resume the long-delayed development of Angola's diamond potential.

Progress in the diamond sector in the last five years of peace, by many measures, has been extraordinary. Production has nearly doubled, from 5 million carats in 2002 to close to 9.5 million carats in 2006. Gross revenue from diamond sales has effectively doubled, from US\$638 million in 2002 to US\$1.2 billion in 2006, while government income has more than tripled, from US\$45 million to US\$165 million over that same five year period.

The Angolan state diamond company Endiama has shown itself to be a master of the art of extracting the maximum possible from the foreign mining companies wanting to do business in Angola. Endiama went from losing money – US\$2.1 million in 2001 – to generating over US\$3 million in profit in 2003. The number of active diamond projects had grown to 12 by mid 2007, with another 15 set to come on line in the next few years, and 30 more beyond that engaged in large scale prospecting. Employment in the diamond projects has grown to over 10,000 positions, with over 90% of these jobs are held by Angolans.

The Kimberley Process

Conflict diamonds are diamonds used by rebel armies to finance war. Diamond-fuelled wars in Sierra Leone, Angola, the Democratic Republic of the Congo, Liberia and elsewhere, have taken the lives of hundreds of thousands of people over the past fifteen years. The Kimberley Process began in 2000 in an effort to halt the trade in 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 now legally binding in more than 45 diamond producing and processing countries, plus all those represented by the European Union. 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 meaning. KP member countries cannot, by law, export rough diamonds to non-member countries.



Partnership Africa Canada Ottawa, Canada

Republic Angola 2007

About this Report

Partnership Africa Canada (PAC) has been a leader in the campaign against conflict diamonds since 1999. It has been an active member of all Kimberley Process meetings and Working Groups. It has produced several background studies on diamond-related issues, 17 occasional papers and a quarterly newsletter, Other Facets. All are available on the PAC website (www.pacweb.org). This Annual Review of the Angolan Diamond Industry is the third produced by PAC and its partners. PAC also produces Annual Reviews of the diamond industries in Sierra Leone and the Democratic Republic of the Congo. These three countries suffered greatly from diamond-fuelled wars, and the Annual Reviews aim to provide their governments, their civil societies and their investors with information that will be helpful in the promotion of greater transparency and more positive developmental outcomes from the industry.

This study was researched and written by a team of PAC researchers, with the assistance of CEJPM, the Episcopal Commission for Justice, Peace and Migration, and Grêmio ABC. PAC would like to thank the wide variety of people in Angolan civil society, government, and the private sector who generously helped in the preparation of this report. They include, at CEJPM, Ernesto Kambali, Joaquim Kalesi Amândio, Soren Kirk Jensen, Padre Belmiro Cuica Chissengueti, Padre Rui Makong; Landu Kama of Grêmio ABC; at Endiama, Alberto Fançony, Cláudia Baptista da Costa, Vanda Correia, António de Sousa Penelas, Miguel Paulino Augusto de Almeida, Adolfo Cravid Xavier; J. Francisco Ganga of the Fundação Brilhante; Helder Milagre and Santo António da Silva of Sodiam; Paulo Mvika of the Ministry of Mines and Geology; Gaspar Cardoso and Simon Gilbert, both of De Beers; Vegard Bye of the UN Human Rights Office in Angola; Christian Larssen of International Gold Exploration AB; Lara Pawson of the BBC; Manuel Vicente Inglês Pinto of the Angolan Bar Association; Paulina Lasallete of ADESPOV, Paulo Alex of Dundo, Lunda Norte; Governor Manuel Francisco Gomes Maiato; the officers of the Angolan National Police in Maludi, for their hospitality; at Catoca, João Reis, Fred Ndombele, Antônio Muanza, João Muangala, João Tunga Felix; Damian Gagnon of Lazare Kaplan International and George Sherrell of Kworum Management; plus a thanks to the people and garimpeiros of Lunda Norte and Lunda Sul. We are also grateful to readers of an early draft of the report and for their constructive suggestions for improvement.

Editor: Shawn Blore Managing Editor: Josée Létourneau Series Editor: Ian Smillie Other developments in the Angolan diamond industry are less promising. The government's implementation of the Kimberley Process – arguably a bedrock upon which the current peace is built – has been based on a misguided and ultimately futile attempt to criminalize garimpeiros on the one hand, and a slipshod, half-hearted chain of warranties system on the other. As a result, in the crucial informal sector, the current Angolan Kimberley Process simply does not live up to international standards.

The drawbacks to Angola's implementation of the Kimberley Process, and the way it has chosen to deal with garimpeiros, are discussed in **Garimpeiros** (pg. 10), **Diamond Buyers and Exporters** (pg. 13), **and The Kimberley Process** (pg. 14). Suggestions for tracking informal production and strengthening the Kimberley Process are covered in **Managing Informal Production** (pg. 15).

The contribution of the diamond sector to government revenue is discussed in **Government Revenue** (pg. 16). The contribution of the diamond projects to development is covered in **Corporate Contributions** (pg. 17). **Fundação Brilhante's** role is covered on page 19.

One unfortunate aspect of the Angolan diamond sector is the way in which the government and Endiama have chosen to give away large percentages of various joint venture projects to political friends and insiders. Most of these well-connected individuals contribute little to the success of the joint ventures, and have done nothing to merit such largesse. Worse still, the money they receive is effectively robbing the people of Angola of funds that could have been used for development. This report documents the case of one such insider company – Lumanhe, owned by a group of FAA generals – in Lumanhe (pg. 7). The Role of Local Partners (pg. 6), details how the insider giveaway works in general terms, while Table 1 (pg. 9) shows the percentages given to insiders for the 12 joint ventures currently in operation. The report looks at the impact of the industry on local people in the Lunda provinces, its effect on their personal security, their environment, their ability to make a living. These findings are summarized in **Local Community Impact** (pg. 19).

Annual Review researchers travelled widely in Lunda Norte and Lunda Sul. They found few schools, little treated drinking water, roads unrepaired since colonial days, and little public investment geared to fixing these problems. One of the richest areas in Angola appears also to be one of the most backward. Five years on, the people of those provinces are beginning to grow impatient.

Diamonds in Angola Today

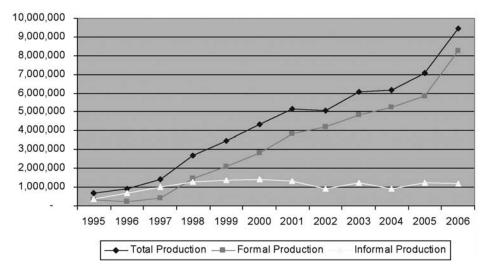
Angola is one of the world's diamond powerhouses, blessed with both extensive alluvial deposits and hundreds of Kimberlite formations. The Kimberlites track along an ancient faultline, extending in a diagonal slash running southeast to northwest from Benguela and Huila provinces, up through Huambo and Bié to Lunda Sul and Lunda Norte in Angola's northeast. Over 700 Kimberlites have been discovered to date. The largest, the Camafuca Camazomba Pipe, has estimated reserves of 23 million carats.

For years, the only Kimberlite under exploitation in Angola was at Catoca, near Saurimo in Lunda Sul province. However, in 2007, two more pipes at Camagico and Camatchia (both part of Luô project in Lunda Norte) came on line. Estimates of the reserves in Angola's known Kimberlites alone range as high as 70 million carats.

TABLE OF CONTENTS

| Introduction1 |
|--|
| The Kimberley Process1 |
| The Angolan Diamond Industry: The Formal Sector |
| Private Sector Players6 |
| The Informal Sector10 |
| Diamonds and development16 |
| Secrecy18 |
| Recommendations20 |
| |

Figure 1: Angolan Diamond Production 1995 – 2006 (carats)



The oblique track described by Angola's Kimberlite deposits also coincides with the division between the country's two major watersheds. Below this line, the rivers flow south – the Okavango and Zambezi systems. Above the line, the rivers flow north to join the Congo. Over the eons both northward and southward flowing streams have worked away at primary Kimberlite extrusions, creating extensive alluvial and river-bottom deposits to the south in Moxico, Cunene and Cuando Cubango provinces, and to the north near rivers in Bié, Malange, Uige, and especially in the provinces of Lunda Norte and Lunda Sul.

A 2000 estimate put Angola's total alluvial reserves at 40 million carats, while suggesting that these reserves would soon be exhausted. However, as older deposits in the Lundas have come under intense exploitation, the garimpeiros forced off these sites have moved on and discovered new deposits, either in the Lundas or in less traditional diamond provinces such as Bié and Moxico. Production from the informal sector has remained steady at just over a million carats per year, even as garimpeiros are forced far from their traditional diggings. Angola's alluvial deposits, though undoubtedly finite, are likely much more extensive than previously thought.

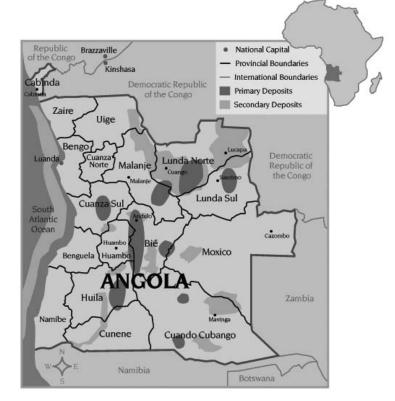
The Angolan Diamond Industry: The Formal Sector

The Legislative Environment

Angola's current diamond mining legislation dates from the early 1990s, at the end of the first phase of the civil war, when both sides had temporarily put down their weapons and the government was shifting the economy over to something approaching market capitalism.

The Diamond Law, the backbone of Angola's current diamond system, was promulgated in October, 1994. (Law No 16/94 of 7 October). In the two previous years a small flood of garimpeiros had poured into the diamond-bearing Lundas. The government's unease at this miniature Wild West shines through in the new law's wording. The Diamond Law would correct 'the idea that any citizen can appropriate a treasure that in constitutional terms belongs to the State', as well as squelch 'the false idea that the circulation of people and goods throughout the nation is entirely free, and not subject to restrictions and conditionalities.'

The Diamond Law granted the 'exclusive right to prospect, research, reconnoitre, exploit, handle and commercialize diamonds in all of Angola's national territory' to Endiama (the *Empresa Nacional de Diamantes de Angola*). Endiama could delegate these rights, but only to a public-private joint venture, in which Endiama itself held either an outright majority, or at least a plurality of ownership shares.



The independent buying posts permitted under a 1991 law were closed, and Endiama was charged with taking over buying and selling diamonds throughout Angola. Unauthorized prospecting, mining, transportation or even simple possession of uncut diamonds were all punishable by prison terms of 8-12 years. Informants were promised 25% of the value of any diamonds seized.

Artisanal diggers were to be permitted only in designated areas where mechanized mining was not viable, and only provided they obtained an artisanal license. Prospective garimpeiros would have to be 18 years or older, in possession of a valid identity documents, and resident for at least ten years in a county adjacent to the designated garimpeiro area. The conditions were sufficiently onerous to scuttle the system from the outset. No licenses were ever issued, and no artisanal areas were ever designated.

To restrict the movement of people and goods in the diamond bearing provinces, the Diamond Law created three new legal jurisdictions: *restricted zones, protected zones,* and *reserve zones.* Restricted zones are effectively the same as mining concessions. Access is strictly limited to those directly involved with the production of diamonds. Goods can enter and leave a restricted zone only with the permission of the concession holder.

Protected zones are buffer areas, surrounding restricted zones for five kilometres in every direction. Ordinary members of the public are allowed to transit protected zones on public roadways, but they must carry ID and a letter of permission from their employer or local authority, and they and their goods are subject to inspection by the concession holder. No one unconnected with the production of diamonds is allowed to live in restricted zones.

Finally, there are *Reserve Zones*, which are literally everything else. According to a separate law passed the same day as the Diamond Law (Law No 17/94 of 7 October), reserve zones cover every square centimetre in Lunda Norte and Lunda Sul not already occupied by a restricted or protected zone. With the passage of the law, 180,000 km² and nearly a million people were placed into Reserve Zones.¹

Residence in a reserve zone was restricted to those who had already lived there for a period of five years or more. Those wishing to move to the Lundas, or to establish a business or industry, or to engage in commercial agriculture or fishing, had to obtain the permission of the provincial government.² Goods entering or leaving the province were subject to inspection by police or other agents of the Interior Ministry.

Even travel to the Lundas is subject to restriction. Visits are permitted for periods of 45 days or less, and prospective travellers have to carry both identification, and a document approved by a government agency stating the purpose, duration and itinerary of the prospective journey.

Finally, the law gives the provincial governors broad discretionary powers to interdict the movement of people and goods and the practice of commerce, industry, or other economic activity, in the interests of protecting known or potential diamond deposits and combating garimpo and trafficking in diamonds.

The next major legislative shake-up took place in early 2000 near the end of the civil war. UNITA had been driven off the prime diamond producing areas in the Cuango valley, but retained significant alluvial capacity. A large proportion of these diamonds were being sold to Angolan dealers licensed to buy informal alluvial production. Endiama's own licensees were thus contributing to the traffic in conflict diamonds.

Decree No 7-B/00 of 11 February 2000 annulled the licenses issued to various diamond middlemen, suspended the buying contracts between Endiama and the various joint-venture diamond producers and in their place created Sodiam (*Sociedade de Commercialização de Diamantes de Angola*). This single channel for all Angolan production, it was believed, would increase the government's oversight of Angola's diamond flows.

A matching decree published the same day (Decree No 7-A/00 of 11 February 2000) mandated a wholesale renegotiation of all concession contracts. The decree also reduced all concessions to a maximum of 3000 km² (a square some 55 km on a side).

Finally, in 2003, a series of decrees established the Kimberley Process in Angola while the Policy of the Diamond Sub-sector (Decree No 36/03 of 27 July) codified policies with regards to investment procedures, and the continued Angolanization of the industry.

Geology and Mines

Though officially Angola's diamond industry falls squarely under the control of the Ministry of Geology and Mines, in practice the ministry's role is limited. As part of the 1994 Lusaka Accords negotiated between the MPLA government and the UNITA rebels, control of several important ministries, Geology and Mines included, was given to UNITA. The government kept to the terms of that deal. However, in the same year as the MPLA agreed to give control of Geology and Mines to an opposition minister, it also moved to strip the ministry of most of its responsibilities over the diamond sector.

The Diamond Law of 7 October 1994 transfers virtually all responsibility for the sector to Endiama. It is Endiama that holds mineral title on behalf of the state, and Endiama that parcels out concessions and negotiates joint-venture contracts with foreign investors. The contracts themselves must be approved by a higher authority, but it is the Council of Ministers (the Angolan cabinet) that signs off on the larger, more important kimberlite projects. Prior to 2003 the Council of Ministers also approved alluvial projects, but that limited power has now been devolved to the Ministry of Geology and Mines.³

Officially, according to officials at the Minsitry of Geology and Mines, it is the Ministry itself administers the Kimberley Process, coordinating this effort through a technical group, with representatives from the Geology and Mines, Endiama, Sodiam and the CSD. In practice, the actual work of implementing the KP – inspecting diamonds, verifying their origin (as much as is done) and validating chain of warranties documents (such as they are) – is carried out almost exclusively by Endiama's subsidiary, Sodiam (The Ministry of Geology and Mines does keep track of export statistics and KP Certificate counts, which it submits to the Kimberley Process Chair).

Various observers, most notably the International Monetary Fund,⁴ have pointed out the inherent conflict of interest in the vast powers granted to Endiama, and have suggested that the regulatory functions that most countries vest in government agencies be devolved back to the Ministry of Geology and Mines. At present, however, no one in Luanda is contemplating such a change.

The relative importance of the two institutions is best illustrated by their respective Luanda headquarters. Endiama's new downtown office tower is bathed in a constant flow of ice-cool air-conditioning, a place where visitors are greeted by a flock of pretty receptionists and offered juice or espresso while they wait for silent elevators to whisk them up to meetings. The dilapidated government office that houses the Ministry of Geology and Mines boasts only a single bored security guard, broken elevators, crumbling stairs, and wheezing individual air-conditioning units.

Endiama

Wholly owned by the Angolan government, Endiama (*Empresa Nacional de Diamantes de Angola, E.P.*) is the key player in Angola's diamond sector. Under the 1994 Diamond Law, Endiama is vested with 'exclusive right to prospect, research, reconnoitre, exploit, handle and commercialize diamonds in all of Angola's national territory'.



The 'prospect, research, reconnoitre and exploit' part Endiama exercises through partnerships with foreign corporations with greater technical expertise and financial resources. However, it is Endiama that negotiates the contracts establishing these joint ventures, and Endiama that issues the prospecting and mining concessions that determine where a company will operate. As representative of the state, Endiama also takes a majority ownership position in every joint venture, either an absolute majority (51%) in the case of Kimberlite projects, or a relative majority (usually from 40-45%) for alluvial projects.

The 'handle and commercialize' aspect Endiama has since 2000 exercised through its subsidiary Sodiam.

During the civil war many of Endiama's mining activities came to a halt, but for political reasons the company kept on the bulk of its employees. The result was a bloated payroll and a balance sheet drenched in red. However, in recent years Endiama's fortunes have rebounded. While in 2001 Endiama recorded a net loss of just over US\$2.1 million, by 2003 the company was showing a net profit of nearly US\$3 million.⁵ Given the continued strong demand for rough diamonds and Angola's increasing production, Endiama's financial results have almost certainly continued their improvement from 2004-2006.⁶

Sodiam

Created in 2000 as a subsidiary of Endiama,⁷ Sodiam serves as Angola's single channel export arm, responsible for exporting all of Angola's diamonds. Sodiam also effectively certifies Angola's diamonds under the Kimberley Process. Though the certificates themselves, and with them the final seal of approval, are signed off at the Ministerial level, it is Sodiam that carries out all of the practical day-to-day work of receiving and vetting diamond parcels prior to export. There is an obvious conflict of interest in these two roles, in that Sodiam is certifying Sodiam's own diamonds. What's worse, there are serious drawbacks in the way Sodiam has chosen to implement the Kimberley Process with respect to Angola's

informal diamond production. Both the conflict of interest and the weaknesses in implementation are discussed more fully below (see 3.6, The Kimberley Process).

As far as Angola's formal diamond production in concerned, Sodiam's performance has been exemplary. The diamonds from each mine are brought to Sodiam's Luanda facility in run-of-mine parcels, where the stones are sorted by Sodiam personnel. An Angolanization policy combined with an aggressive training program has enabled Sodiam to dispense with expatriates and employ exclusively Angolan sorters. The stones are then valued three times, once by Sodiam, once by the producer and once by an independent valuator. Once the price has been agreed, the package is sealed and the Kimberley Certificate attached. The designated signatories are the Deputy Minister of Trade and the Deputy Minister of Geology and Mines.

Sodiam has been trying in recent years to assert greater control over the marketing of Angolan diamonds. The company has opened offices in Belgium and Israel, and in the longer term has plans to implement a system of sights or auctions in Angola.

Corpo Especial de Fiscalização e Segurança de Diamantes (CSD)

The Corpo Especial de Fiscalização e Segurança de Diamantes (CSD), a specialized force of some 500 officers, is responsible for ensuring the security of Angola's diamonds as they travel to Luanda from mining projects or buying houses in the interior. The CSD also controls security at Sodiam's diamond sorting facilities in Luanda. CSD agents are present at every step as the diamond parcels are opened, sorted, valued and then re-packaged for export.

In the informal sector, the CSD is in charge of licensing the diamond traders who buy from garimpeiros in the interior. The CSD also has a mandate to investigate and curb illicit mining and smuggling, but in practise seems to have taken little action in this field.

Private Sector Players

Setting up a Joint Venture

In the formal sector, diamonds are exploited exclusively by means of an Angolan-registered joint venture partnership between Endiama, acting as trustee for the nation's mineral rights, and a foreign company with the requisite investment funds and technical expertise. In addition, one or more smaller Angolan companies are normally included as minor partners.

The process for creating a joint venture is now fairly standardized, if not especially speedy. The foreign company presents Endiama with a letter of intent. Endiama then evaluates the prospective company both for technical capacity and financial depth. If both are in order, negotiations turn to selecting a specific 3000 km² diamond concession.

In recent years, Endiama has been encouraging foreign companies to shift their attention from the Lundas to areas along the Malange-Bié axis, as well as further south in Moxico Province. Of course, the foreign investor may already have an idea of where it wants to operate. A limited amount of back and forth may thus ensue until a concession is agreed upon. Although not part of the formal process, in practice the investor may also request some modifications to the concession boundaries.

The selection of a concession triggers the entry of an Angolan private sector partner. According to Endiama, there is an Angolan company attached to every available concession. Though the legal basis of this linkage is somewhat dubious, it is apparently indissoluble.

The actual percentage allotted to each participant is negotiable, within certain boundaries. With alluvial projects, Endiama and the Angolan partner must jointly own at least 50% of the partnership. Typically, Endiama takes somewhere between 35 and 45%, the foreign investor takes the same, leaving 15-25% for the Angolan partner. Some of the more powerful foreign investors, including SPE of Portugal, De Beers and Brazil's Odebrecht have managed to eliminate the Angolan partner entirely, splitting the projects 50-50 with Endiama. More typical is the split reached on the Chitotolo project, in which Endiama took 45%, ITM of Bermuda took 40% and Lumanhe took 15%.

For Kimberlite mines, Endiama must by law own at least 51% of the project. An exception was made for the Catoca mine, where Endiama traded 18% of the project for a much needed cash infusion from a Lev Leviev company, reducing its share to only 32.8%. On the Luô project, Endiama took its full 51%, while foreign investors Escom-Alrosa (a partnership of Portugal's Esprito Santo bank and the Russian diamond giant Alrosa) took 45%, leaving 2% each for two well-connected Angolan firms, Hipergesta and Angodiam.

Endiama has a fairly standard joint venture contract, but in recent years foreign investors have been demanding the right to maintain management control of their project, no matter the division of shares in the partnership. The contract for the Cambuia Project between Endiama, Equatorial Diamonds (registered in the British Virgin Islands) and a troika of Angolan firms – Miningest, Sambukila and N'Jula Investments – is fairly typical in this regard.⁸ While broad direction of the company is ostensibly in the hands of a three-man council in which each of the parties has a representative, the contract also stipulates that the general director and chief financial officer be indicated by the foreign partner, Equatorial.⁹

All investment, and all risk, is explicitly the responsibility of the foreign investor. For alluvial projects the minimum investment is US\$5 million, while for kimberlitic projects, the minimum is US\$10 million, and the average much more.

As a final step, the project must then be approved by the Angolan government, either by the Ministry of Geology and Mines for alluvial projects, or the Council of Ministers (the Angolan cabinet) for Kimberlite projects. A new joint venture becomes official upon its publication in the government gazette, the Diário da República, and only then can field work can begin. Average time from letter of intent to publication in the Diario is about two years.

The joint venture system might seem dauntingly disadvantageous for the foreign investor, who has to provide all the money and technical expertise in return for something less than a half share in the final enterprise. However, there seems no lack of mining companies eager to do business in Angola, including most of the majors. Russian giant Alrosa, BHP Billiton and De Beers all have one or more concessions in the exploration stage.

According to Endiama's director of planning and investment, there are a total of 156 concessions delineated in Angola, of which 12 are in full production, 30 are in the early start-up phase of production, 15 are in the prospecting and exploration phase, and about 100 are greenfield sites waiting for an investor to fund exploration.

The Role of Local Partners

The murky and politicized manner in which private Angolan companies gain access to the country's diamond resources is an ongoing area of concern with respect to Angola's diamond industry. As described above (see 3.1 Setting up a Joint Venture) somewhere between 15-25% of every alluvial project, and just under 5% of kimberlite projects are allocated by Endiama to private Angolan companies.

Angola's Diamond Law states that 'participation by national firms should be encouraged, as long as they meet the necessary technical and financial conditions.'¹⁰ According to industry insiders, however, the Angolan companies bring neither investment capital nor technical expertise to the table.

These companies are all connected in one way or another to government,' said one diamond mining executive who has negotiated several joint ventures with Endiama. The only thing they offer are political ties to important players in the Angolan government or army, and with them the ability to influence government decision making.

This point is actually formalized in the joint venture contracts. The contract for the Cambuia Project,¹¹ for example, notes that while foreign investor Equatorial Diamonds brings technical expertise and US\$10 million in investment to the table, the trio of Angolan partners – Miningest, N'Jula Investment and Casa Sambukila – offer only their ability to 'assure a harmonious relationship between the project and the local community'. For this vague ability to engender harmony they jointly receive a 5% share in the project.

Exactly who decides which companies get what share of each individual project remains one of the great unknowns of the Angolan diamond industry. The Angolan companies do not hold mineral claims to the concession areas, for the simple reason that mineral claims as understood in Western countries do not exist in Angola. Nor are the Angolan companies partners in a pre-existing joint venture, of which the foreign company is buying a share. Nor do the Angolan companies own the concessions. As the contracts make clear, mining concessions in Angola are inalienable; they cannot be bought, sold or traded, as they often are in Western countries. Instead, the Angolan companies' 'right' to a particular concession appears to be based largely on political influence.

For government watchers, the company names attached to each new joint venture agreement are a sign of who has won favour at the presidential court. In the mid-1990s, a company named Lumanhe, owned by several army generals, was given sizeable proportions of several alluvial joint ventures. In recent years companies such as Hipergesta and Angodiam have also been blessed with concessionary largesse.

Government officials justify transferring large amounts of the country's national wealth into the hands of private individuals in various ways. In a more candid moment, a senior official from the department of Geology and Mines extolled the handouts to current and former army generals as an intelligent way of forestalling a possible *coup d'etat*. While this may be understandable, transforming the general staff into an entrenched economic elite with a yearly entitlement seems an unnecessarily high price for peace.

In negotiations with foreign investors, Endiama officials have justified the giveaways as a type of affirmative action. Angolan officials are justifiably proud of what their 'nationalization' policy has wrought in other parts of the diamond industry. In just a few short years Angolan engineers, geologists, sorters and diamond cutters have taken the place of all but a small minority of expatriate workers. However, there is a big difference between giving opportunities to Angolan technicians and engineers – men and women who have trained themselves to perform their jobs as well as anyone in the world – and giving away vast quantities of national treasure to friends and supporters.

Foreign investors doing business in Angola appear to have written off this giveaway as simply part of the cost of doing business. But in claiming 5-25% of every project, these politically connected companies are not taking money from government or foreign investors; it is the Angolan people who pay the price. The true cost to the Angolan people is best illustrated by the case of just one company: Lumanhe.

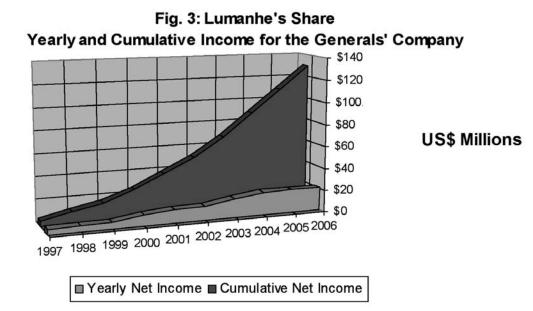


Lumanhe: In the company of Generals

Often known as the generals' company, *Lumanhe Extração Mineira*, *Importação e Exportação* was founded late in 1995 by six equal partners: António Emílio Faceira, Armando da Cruz Neto, Luís Pereira Faceira, Adriano Makevela McKenzie, João Baptista de Matos and Carlos Alberto Hendrick Vaal da Silva. Five of the six hold the rank of general in the Angolan armed forces.¹²

In the insider's rush for parts of Angola's diamond industry, Lumanhe has proven to be extraordinarily fortunate, picking up a 15% share in both the Chitotolo and Cuango alluvial projects, as well as a similarly large share in the Calonda mining project.

The figures in Table 1 give an indication of just how much the insider diamond giveaway has cost the Angolan people. Beginning at just over US\$5 million in 1997, the generals' gross yearly income grew to over US\$22 million by 2006. Royalties and taxes reduced this take only slightly. Over the past ten years, the Lumanhe generals' cumulative net income, after taxes, reached an astounding US\$120 million, or US\$2 million, per general, per year.¹³



The important question for Angolans is what else could have been done with this money – US\$120 million. The 2006 Angolan budget¹⁴ allocates Kwz 113 million or approximately US\$1.25 million to building and equipping a new provincial hospital in Dundo, the capital of Lunda Norte. This is a big project for Angola, one in which the provincial governor has invested a lot of prestige. The money that went to Lumanhe would have been enough to build ten such hospitals, each and every year, for ten years. Observers must ask themselves whether the 'harmony' provided by Lumanhe to ITM Mining was worth the equivalent of ten provincial hospitals.

Alternatively, the money could have been spent on education. In Lunda Sul, many primary school teachers are paid just US\$20 per month. Worse still, most lack pens and paper and blackboards and chalk and, in fact, even schools in which to teach. The 2007 budget puts the cost of a sixroom primary school in Saurimo at Kwz 22 million, or US\$ 276,000. The US\$120 million taken by the generals would have been enough to build 150 such schools, and to pay their 900 teachers a liveable wage of US\$300 a month, each and every month for the next 25 years, with money left over for chalk and pens and paper.

Alternatively, the money could have been spent on health posts, or clean water supplies, or even roads, all of which are sadly lacking in Angola's diamond mining areas.

And Lumanhe is just one company. There are, in addition, six other producing projects from which well-connected Angolan companies take their cut. They include the Luô project, 2% owned by Hipergesta and 2% by Angodiam; Laurica, with 25% divided between Micol and Som Veterang; Fucauma, 30% divided between Toca Mai, Diagema, Afro Mineiras, Lumae, C.D.S and C.M.J.S. Beyond these, there are several dozen projects either prospecting or gearing up for production. Over the next few decades, the cost of these insider giveaways will reach into the billions of dollars

Angola Polishing Diamonds

In the longer term, the Angolan government strategy is to capture value all along the production chain, from mining, to export, to polishing, through to retail sales, potentially under an Angolan brand. As part of a push to develop a polishing capacity in Angola, the export agency, Sodiam, teamed up with Lev Leviev in 2005 to create Angola Polishing Diamonds, a joint venture 48% owned by Sodiam and 47% by the Leviev company LLD, with the remaining 5% held by an Angolan consortium known as PROJEM.

Mindful of the advantage that India has on smaller sizes, Angola Polishing has opted to concentrate on stones between 0.7 and 1.5 carats. According to the company director, Angola Polishing can buy a top-quality 1.5 carat piece of rough from Sodiam for about \$600 per carat, and sell it for some US\$1100 after polishing. Though Angolan wages far exceed those of India, according to the director there is margin between these two figures to make a profit.

At its cutting operation in the new southern suburbs of Luanda, Angola Polishing Diamonds has invested in the latest lapidary equipment, much of it automated or semi-automated. The polishing staff of 470 are 90% Angolan (half of them women), supported by a small cadre of experienced foreign cutters, drawn from both Israel and Russia.

Financial results for the company are unavailable, so it is impossible to evaluate the company's profitability. However, blessed with a preferred supply of rough from Sodiam and some deep pockets behind it, Angola Polishing Diamonds would seem hard pressed not to succeed.

| | Project | Lumanhe | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 |
|----|---|---|---------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| 1 | Chitotolo | 15% | 84,775 | 121,313 | 118,314 | 210,153 | 233,930 | 276,781 | 332,134 | 300,000 | 300,000 | 300,000 |
| 2 | Calonda | 15% | 87,828 | 81,739 | 87,576 | 138,770 | 199,097 | 182,355 | 276,290 | 444,000 | 444,000 | 444,000 |
| 3 | SMC - Cuango | 15% | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a |
| 4 | Total Production - Lumanhe Companies (ct) | • | 172,603 | 203,052 | 205,890 | 348,923 | 433,027 | 459,136 | 608,424 | 744,000 | 744,000 | 744,000 |
| 5 | Lumanhe Share (ct) | • | 25,890 | 30,458 | 30,884 | 52,338 | 64,954 | 68,870 | 91,264 | 111,600 | 111,600 | 111,600 |
| 6 | Lumanhe Yearly Gross (US\$ millions) | (@ \$200/ct) | \$ 5.18 | \$ 6.09 | \$ 6.18 | \$ 10.47 | \$ 12.99 | \$ 13.77 | \$ 18.25 | \$ 22.32 | \$ 22.32 | \$ 22.32 |
| 7 | Lumanhe Cumulative Gross (US\$ millions) | | \$ 5.18 | \$ 11.27 | \$ 17.45 | \$ 27.91 | \$ 40.90 | \$ 54.68 | \$ 72.93 | \$ 95.25 | \$117.57 | \$139.89 |
| 8 | Royalties+ Sodiam Fees | 6.8% | \$ 0.35 | \$ 0.41 | \$ 0.42 | \$ 0.71 | \$ 0.88 | \$ 0.94 | \$ 1.24 | \$ 1.52 | \$ 1.52 | \$ 1.52 |
| 9 | Yearly Gross minus Direct Taxes | | \$ 4.83 | \$ 5.68 | \$ 5.76 | \$ 9.76 | \$ 12.11 | \$ 12.84 | \$ 17.01 | \$ 20.80 | \$ 20.80 | \$ 20.80 |
| 10 | Cumulative Gross (incl Direct Taxes) | • • • • • • | \$ 4.83 | \$ 10.50 | \$ 16.26 | \$ 26.02 | \$ 38.12 | \$ 50.96 | \$ 67.97 | \$ 88.77 | \$109.58 | \$130.38 |
| 11 | Yearly Gross/General | - - - - - - - - - | \$ 0.80 | \$ 0.95 | \$ 0.96 | \$ 1.63 | \$ 2.02 | \$ 2.14 | \$ 2.84 | \$ 3.47 | \$ 3.47 | \$ 3.47 |
| 12 | Cumulative Gross/General | • | \$ 0.80 | \$ 1.75 | \$ 2.71 | \$ 4.34 | \$ 6.35 | \$ 8.49 | \$ 11.33 | \$ 14.80 | \$ 18.26 | \$ 21.73 |
| 13 | Gross Incl Tax Estimates | | 4.72 | 5.53 | 5.61 | 9.50 | 11.82 | 12.50 | 14.93 | 18.64 | 18.64 | 18.64 |
| 14 | Cumulative Gross (Incl Tax Estimates) | - | \$ 4.72 | \$ 10.25 | \$ 15.86 | \$ 25.36 | \$ 37.18 | \$ 49.68 | \$ 64.61 | \$ 83.25 | \$101.90 | \$120.54 |

Table 1: Calculation of Lumanhe Gross and Net Profit from Participation in three Diamond Joint Ventures

Notes to Table 1

- 1 Where estimates or assumptions have been made, they are clarified in the notes below. All estimates are chosen conservatively, in order to minimize Lumanhe's overall diamond income.
- 2 The top three two rows show the annual production, in carats, of the projects in which Lumanhe has a share. (Production figures for Chitotolo and Calonda for 2004-2006 are estimates only, derived from company publications.Production values for the Cuango project were unavailable, and so are set at zero. Lumanhe's share of the Calonda is an estimate, based on company publications and on the pattern in Lumanhe's other two projects)
- 3 Lumanhe's percentage of each of these projects has been multiplied by each project's yearly production to derive Lumanhe's total yearly share. Shown in row 5, these numbers begin modestly enough, at some 26,000 carats in 1997, rising to over 90,000 carats by 2003.
- 4 Lumanhe's yearly share (row 5) has been multiplied by the average value of the diamonds, estimated at US\$200/ct, to obtain the annual gross income of the five Lumanhe generals (Row 6, shown in millions of US dollars). Beginning at just over US\$5 million in 1997, the generals' gross income grows to over US\$22 million by 2006. (Actual per carat values for the three projects are unavailable. However, the average per carat values for the entire alluvial sector for the years 2003-2006 ranged from US\$205 to US\$235. Furthermore a large percentage of Lumanhe's production comes from the Lucapa area where the per carat value is normally well above the national average. Given this, the US\$200/ct estimate is almost certainly low.)
- 5 Row 7 shows Lumanhe's cumulative gross income. Over the past ten years, the five Lumanhe generals and their civilian colleagues have together grossed nearly US\$140 million.
- 6 Only a very little of this gross income gets recovered through taxation. Direct taxes (row 8) on production are set at 6.8% (a 5% production royalty, 0.6% land use royalty, and 1.2% fee charged by Sodiam). Over the ten years shown, they reduce the general's income by less than US\$10 million.
- 7 Rows 9 and 10 show Lumanhe's yearly gross and cumulative gross with these direct taxes subtracted. This estimate shows what the Lumanhe generals have taken from the Angolan diamond industry some US\$130 million over ten years.
- 8 Row 11 and 12 show how much, on average, the Lumanhe generals earned on an individual basis: nearly US\$21 million per general per year.
- 9 Assessing Lumanhe's after-tax income is more difficult. Corporate income tax in the mining sector is officially 35%, but generous deductions are allowed. Neither of the projects makes their tax data public. However, tax data given by Endiama to the IMF¹⁵ show that in the years 2001 and 2002, income taxes on the Chitotolo project amounted to less than 4% of gross revenue. Income taxes on the Calonda project in these years amounted to less than 0.5% of gross. The rates rose somewhat in 2003, to 17% of gross revenue for Chitotolo and 4.75% for Calonda. Applying these tax rates to subsequent years, one arrives at the figures given in Rows 13 and 14. This puts the final estimate of the generals' ten-year income at US\$120 million. The need to estimate tax rates introduces some uncertainty to this figure, but assumptions likely err on the low side. This estimate of Lumanhe's income does not include the company's share in the Cuango project.
- 10 These figures do not include the 10% capital gains tax that officially applies to disbursements from mining projects, but it is likely that anyone with the influence to win a diamond concession for doing nothing can probably avoid paying capital gains.

The Informal Sector

Legislation

The Angolan Diamond Law of 1994 makes only token provision for artisanal miners. Garimpeiros are legally permitted to work only if they obtain a license and only if they work in areas specially designated for artisanal mining. It was thought that these garimpeiro zones would be located adjacent to formal mining concessions, in places not conducive to industrial mining. In practise, no such artisanal areas were ever created, nor any licenses issued.

Beyond these token provisions, the Diamond Law made it a criminal offence to prospect for, buy, sell, or even possess rough diamonds, punishable by prison terms ranging form three to twelve years. In order to curb illegal garimpo, the laws decreed all of the Lundas outside of formal mining concessions to be special reserve zones, and delegated broad powers of search and seizure to provincial governments, national police and private security companies contracted by mining concession holders. These laws went into abeyance with the resurgence of the civil war in the mid-1990s, but with UNITA's surrender in 2002, Angolan authorities began putting these laws to use to stamp out all artisanal mining.

Garimpeiros

Garimpeiros – unlicensed diggers working with unsophisticated equipment in areas unsanctioned by government – have been a feature of Angola's diamond fields since diamonds were first discovered in 1917. Large scale garimpo, however, dates only from the early 1990s, when a series of exceptionally dry summers coincided with a temporary ceasefire in the country's long civil war, and garimpeiros, many of them demobilized soldiers, flooded to the Lunda provinces to make their fortunes.

With the end of the civil war in 2002, the MPLA government turned its attention to eliminating unlicensed mining. Its anti-garimpo measures included the infamous Operation Brilhante, which began in 2004. Units of the army, police and the Serviço de Migração Estrangeiro (SME) launched sweeps throughout the diamond provinces, rounding up nearly 300,000 illegal immigrants from other African nations and shipping them back to their countries of origin. The brutality with which the operation was conducted lead to widespread complaints, most notably from the neighbouring government of the DRC. Undeterred, Angola has continued with follow-up sweeps, using the same methodology and even the same codename. The most recent phase of Operation Brilhante, designed to round up illegal miners in Bié province, took place in early 2007.

To keep foreign diggers from seeping back into Angola, the government strengthened security on the northern border, and installed SME check-

points at airports and on key roads leading to the border areas. To occupy the diamond areas vacated by deported garimpeiros, Endiama aggressively pushed the development of formal diamond projects, and encouraged these joint ventures to take all necessary measures to prevent garimpeiro activity within and near their concessions.

Five years into the government's anti-garimpo campaign, the results can fairly be judged a failure. In 2000, before Operation Brilhante, an estimated 300,000 garimpeiros in various parts of Angola produced just over 1.3 million carats. In 2006, production from the informal sector totalled 1.18 million carats. That is to say, five years of eradication measures, including hundreds of documented human rights abuses and a near diplomatic rupture with the DRC, resulted in a reduction in artisanal output of just over 17%. No census of garimpeiro numbers has been made in recent years, but the likelihood is that there are as many or more working today as there were before the anti-garimpo campaign began.

What the government campaign has accomplished is to make the local village garimpo, if not a thing of the past, then at least much more of a rarity. In Lunda Norte most garimpo has moved from the environs of Cafunfo to more isolated locations near the border with Malanje, in the Lower Cuilo River near the border with the Congo, and on the Luife and Chuimbe rivers on the axis linking Maludi and Lucapa. In other parts of the country, extensive new garimpo areas have opened up in northern Bié province, and there are also reports of new garimpos in heretofore sparsely populated Moxico province.

The Annual Review investigated the large garimpo at Maludi in some detail. The smaller, shallower digs in the Maludi area are worked by crews of eight to sixteen men, under the supervision of a crew boss who may also be the supplier or *patrocinador*. This crew boss provides food – three meals a day of *fuba*, beans and sometimes pasta – as well as medicine, should any of his men fall ill. The garimpeiro has to pay for tools himself. The cost of supplying a ten man crew for one month runs to approximately US\$700, in return for which the *patrocinador* earns the right to a 50% share in any diamonds found, with the value of the diamond determined by the *patrocinador* himself.

For larger, deeper pits, the investment is orders of magnitude greater. These vast, 30-metre deep garimpo sites are worked by gangs of up to 50 men, who labour anywhere from three to six months digging out overburden before they reach the paying ore. Maludi boasted several such deep pits, each divided among four or five such large work crews. At a rough guess, the large pits together hold perhaps 500 men. The basic financial arrangement, however, remains the same. Garimpeiros receive nothing but food, plus a share in the proceeds once diamonds are found, at prices set by the supplier.

Ordinary diggers are obviously put at a huge disadvantage by this arrangement, but feel themselves powerless to do anything about it. This is particularly true of the larger pits at Maludi where a good proportion of the workers are non-Angolans, many from the Congo. Not only is their work illegal, so too is their very presence in the country.

There is a full police post in Maludi, staffed by officers well aware of both the illegal foreign miners and the ostensibly illegal mining. The garimpo could hardly go on without their blessing. Indeed, they are active participants. Several of the Maludi detachment's senior officers act as *patrocinadors*, supplying and directing their own work crews within the Maludi garimpo. Their involvement was confirmed to the *Annual Review* by *garimpeiros* and as well as by one of the police-*patrocinadors* himself. The fact that they are police, the moonlighting sergeant explained, helps to keep diggers in line, particularly in negotiations over the worth of any diamonds.

'What are they going to do? We're the police,' the sergeant explained.

The same police officer explained that *patrocinadors* like himself generally preferred foreign garimpeiros to Angolans. 'Angolans eat a lot, work very little. Foreigners eat a lot, work a lot.' Foreign diggers also complain less, and few dare to challenge police authority in Maludi.

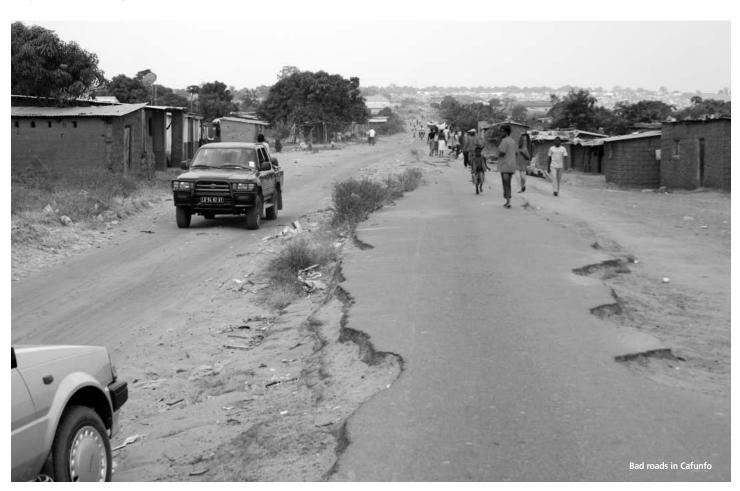
While visiting the police compound in Maludi, the *Annual Review* witnessed a prisoner being given twenty strokes with a truncheon. According to the officer who administered the beating, the garimpeiro had been caught trying to steal a motorcycle. This kind of extra-judicial justice is formally illegal in Angola, but in isolated places such as Maludi the police are essentially a law unto themselves.

Private Security Companies

Angola's 1994 Diamond Law delegated extensive policing powers to the holders of government diamond concessions. Within the boundaries of a concession or *protected zone*, concession holders have the right to stop, question and search anyone, even those travelling on public roadways, suspected of some connection to illegal mining. Those deemed to have contravened the diamond law could be apprehended, forcibly if need be, to be turned over later to the police. As the law came to be interpreted, concession holders could even restrict the use of public roadways to those they deemed to have permission to travel.

Concession holders, in turn, have delegated these powers to one of several private security firms. The three principal firms all have strong connections to the Angolan security establishment.

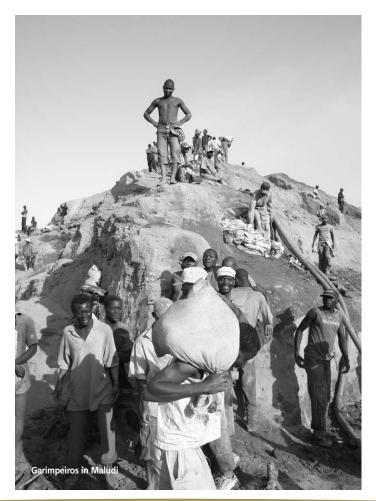
K&P,¹⁶ founded in 2002, boasts among its six owners four senior officers of the Angolan National Police,¹⁷ including the general commander, Commissar José Alfredo. Among its eight owners, Teleservice¹⁸ counts six FAA generals, two of them former chiefs of staff¹⁹. Alfa-5,²⁰ 30% owned by Endiama, also counts active generals and close relatives of the general staff among its owners.



As the diamond projects began to resume after the war, they were strongly encouraged by Endiama to put an end to illegal mining in their areas. That direction, combined with the broad provisions of the diamond law, and the strong political backing of the various private security firms, created a situation where abuse was almost inevitable.

The most comprehensive record of the human rights violations that followed is contained in a pair of reports by the Angolan journalist and activist Rafael Marques.²¹ As detailed in the Marques reports, it became common practice for security company personnel to shoot garimpeiros on sight. Those caught and taken into custody were routinely beaten with battery cables or rifle butts. Some were held captive for days, and forced to labour at the security company camp as punishment.

By 2006, the security companies' disregard for human rights in the Lundas had become so flagrant that it brought down the censure of the governor of Lunda Norte, Manuel Francisco Gomes Maiato. A journalist for the Dundo bureau of the Angolan government newspaper *Jornal de Angola* credits an incident that occurred near Lucapa, when the governor's motorcade was stopped by a crowd of angry local residents, who informed the governor that not half an hour before an innocent villager had been gratuitously gunned down by an armed guard riding shotgun on a diamond buyers' 4x4.



In May 2006, the Governor held a meeting with the chairman of Endiama, Arnaldo Calado, and representatives of the three main security firms. According to an eye-witness to the meeting, the governor made his point in no uncertain terms. He pounded the table. He shouted. 'The people of Lunda Norte are not dogs to be shot down in the street,' he reportedly told the assembled diamond sector executives. His point seems to have been accepted.

Local people in the Lundas began to notice a significant improvement in the comportment of security company personnel. The gratuitous hunting and shooting of locals by security companies appears to have ceased altogether. Locals interviewed by the *Annual Review* in the Cafunfo area say that while they are still prevented from fishing in local rivers, they no longer need permission from security companies to travel public roadways. Many of the roadblocks were dismantled altogether. Others were taken over by police. And while security firms continue to patrol for unlawful garimpeiros, those apprehended are now generally no longer held captive and tortured, but instead turned over to the national police.

The governor of Lunda Norte, Manuel Francisco Gomes Maiato, deserves recognition for taking the initiative in re-asserting the rule of law, and the control of public space by legally constituted public authority. The next challenge facing the governor, and other Angolan authorities, will be bringing public accountability to the Angolan National Police.

Police

The 1994 Angolan Diamond Law and the companion law declaring the Lunda provinces special reserve zones made garimpo illegal and gave wide powers to police to combat illegal mining. In many parts of Lunda Norte, police have taken advantage of these tools, not to stamp out illegal mining, but to turn garimpeiros and garimpo into a profitable private enterprise. What's worse, the corruption appears to be spreading back from the garimpo sites to infect all parts of Lunda Norte.

In the town of Cafunfo, the vans and taxis that transport local people are subject to a daily illegal toll of approximately Kwz 1000 (about US\$12). While police corruption is not unknown in other parts of Angola, according to a Cafunfo taxi driver who has also worked in both Huambo and Luanda, this type of daily shakedown is a particular feature of the Lundas.

Passengers on the daily flights to Luanda are confronted at Cafunfo airfield by a cordon of National Police, who demand payment of Kwz 500 (US\$6) before allowing travellers to enter the departure terminal. (*Annual Review* researchers were able to avoid payment, but only after a full halfhour's argument.) Locals pay or they do not fly.

Within the departure terminal, soldiers tasked by the SME with searching travellers show little interest in checking baggage, and instead put their energy into demanding 'gasosas' or small bribes. A diamond smuggler with a few hundred kwanza to spend would have no difficulty bribing these officials to overlook anything in his luggage. Similarly, the border police manning the checkpoint just outside Cafunfo on the road running

north to the Congo are known to overlook the lack of papers or foreign accents of incoming migrants, in return for payments in cash.

All this occurs in Cafunfo, a substantial town where many residents have nothing to do with garimpo. For those living in garimpeiro areas, the payments are much higher, and the danger from police is greater.

In Maludi, one of the largest garimpos currently underway in Lunda Norte, police have found ways to extract fees from every aspect of the operation. Police roadblocks charge the pickup trucks that ferry miners and supplies from Nzaji to Maludi KWz1000 (US\$12.5) as they leave Nzaji, and another Kwz 2000 (US\$25) as they enter Maludi.

According to one of the sergeants stationed at Maludi, several of the higher ranking Maludi police, including the sergeant himself, are directly involved in the garimpo as *patrocinadors*. They stake the crews digging in the pits, collect the diamonds and share in the profits. According to the Maludi sergeant, *patrocinadors* prefer foreign workers to Angolans: they work harder, and having no legal right to be in the country, they complain less.

Within Maludi, there are no licensed diamond buying houses, but rather unlicensed *contuarios* that buy straight from the garimpo and sell to the formal licensed buyers who travel in by 4x4 several times per week. To stay in business, theses unlicensed buyers are required to pay approximately US\$100 per week to the Maludi police. Garimpeiros who have worked other areas in Lunda Norte say this kind of police involvement in garimpo is common, as is the system of roadblocks and road bribes. There are few who however, who dare complain.

Diamond Buyers and Exporters

The diamond buying sector has gone through three different shake-ups over the past dozen years, as Angolan officials have tried to balance the competing goals of maximizing revenue, reducing smuggling and bringing transparency and traceability to informal diamond channels. From 1996 to 2000 there were a half-dozen buying houses licensed to deal in Angolan rough. The civil war was still on, and as most of Angola's best diamond fields were then under UNITA control, there was a strong suspicion that a great deal of rebel rough was entering these licensed buying operations.

In 2000 the government revoked all buying licenses and created Sodiam as the single-channel for all Angolan rough. Sodiam, in turn, gave a monopoly over the informal market to a new subsidiary Ascorp (Angolan Selling Corporation), 51 per cent owned by SODIAM, and 49 per cent by Welox and TAIS (Trans Africa Investment Services). In combination with a new Angolan certificate scheme, this arrangement was intended to help the government squeeze UNITA rough out of the system. The new monopoly was, also not incidentally, supposed to lower rough prices and thus raise government revenue.

In 2003 the Angolan tracking system was replaced by Angola's enactment of the Kimberley Process, and in 2004 Ascorp's monopoly was effectively broken when the American firm Lazare Kaplan International (LKI) opened a chain of buying houses throughout the interior. Legally, this operation belongs to Sodiam, with LKI acting only as a service provider under the terms of a four-year contract.²² In practice, the buying houses are identified as Sodiam/LKI, while employees of the joint operation say they work for LKI.

Republic Angola 2007

Both LKI/Sodiam and Ascorp operate a number of large central buying houses – known as a *casa mae* or mother house – in interior garimpo towns including Cuango, Cafunfo, Luremo, Nzaji, Dundo, Lucapa, Muchinda, Saurimo and Andulo. Each *casa mae* is staffed by a company buyer and protected by armed guards and other security measures.

In addition to the mother house there are a number of smaller buying houses, affiliated with the company but operated independently, located within the town and in smaller settlements closer to garimpo sites. In Cafunfo, LKI and Ascorp each have a half-dozen affiliate houses. In Saurimo the number of affiliates is less, perhaps a pair each for LKI and Ascorp.

These sub-houses are run by an independent owner-operator, licensed by the CSD in Luanda. (Licenses are valid for three months, and must be renewed in the capital.) Sub-houses, in turn, often work with informal and unlicensed sub-buyers, who live near active garimpo sites.

The commercial relationships between the mother house and sub-buyers varies a great deal. Sometimes sub-buyers are bankrolled entirely by the mother house, in which case they are obligated to sell their diamonds back to the *casa mae*. Other sub-buyers work off their own capital, in which case they are free to sell their diamonds to whomever offers the best price, be it the mother house, or another sub-buyer or a mother-house in a different region. Diamonds bought in one region may thus pass through a number of hands, and even through different regions, before arriving at a mother house.

Buyers at all levels take full advantage of the garimpeiros' precarious legal standing. Garimpeiros entering a buying house are told what price their diamonds will fetch. Little or no bargaining is permitted. In cases where there is a disagreement, buyers simply call their security detail, and tell the garimpeiros they can take the money and leave, or leave empty-handed. Either way the diamonds stay. The buyer, after all, is legally entitled to possess diamonds, while the garimpeiro is not. Garimpeiros largely seem resigned to this system, knowing that if it comes to a dispute, the police will support the buyer. Not surprisingly, the field prices paid for Angolan rough are some of the lowest in Africa. Low prices, however, may be the only thing keeping stones from other countries out of Angola.

Buyers never ask garimpeiros to show ID or explain where their diamonds come from. The sub-buyers we spoke to in Dundo, Maludi and Cafunfo say that they don't even record purchases, beyond a simple entry in whatever they use for a ledger. Officials from the Ministry of Geology and Mines claim this failure to record the seller's ID and the origin of the diamonds is a violation of current laws or regulations. If so, it is a violation that is near universal. As far as the *Annual Review* was able to determine,²³ tracking of stones from the informal sector begins only when the diamonds arrive at a *casa mae*. It is there that the details regarding their price, size and date of purchase are recorded. According to Angola's Kimberley Process regulations, these records must be kept for five years, and are subject to inspection by the CSD, although it is unclear whether the CSD ever conducts field audits in practice. At regular intervals, the *casa mae* packages its diamonds and dispatches them, under CSD escort, to the Sodiam sorting centre in Luanda.

In addition to sorting and grading the stones, Sodiam carries out all of the practical tasks involved in certifying the stones under the Kimberley Process. (The actual certificate gets pro-forma final approval by the Ministry of Geology and Mines). However, no documentation arrives with the diamond packages, so Sodiam relies on the simple assurance of the *casa mae* that the stones come from a conflict-free location. However while the *casa mae* can say when the diamonds arrived in its hands, the stones' origins, as well as the transactions and dealers it may have passed through before reaching the *casa mae* remain a mystery. The system is clearly more than loose enough to let slip a vast amount of conflict goods, were any conflicts raging nearby.

Indeed, the system is not significantly different than the one in place from 1996-2000, which was widely suspected of laundering a significant portion of UNITA's rough diamond production. The current absence of conflict rough in Angola's diamond stream cannot be ascribed to any inherent rigour in Angola's system. Should any new conflict break out, the Angolan system would be wide open to exploitation.

The Kimberley Process

The Kimberley Process in Angola is implemented by the Endiama subsidiary Sodiam. While the Ministry of Geology and Mines has to sign off on all KP certificates, this is a largely pro forma process. The actual work of vetting the diamonds is done at Sodiam. This leads directly to a profound conflict of interest. As Kimberley authority, Sodiam is responsible for ensuring Angola's diamonds are conflict free. As the owner and exporter of these same diamonds, Sodiam's interest lies in exporting as much, as profitably, as possible. Other observers, notably the International Monetary Fund, have noted and decried the conflict of interest in Sodiam's dual roles.

As a practical matter there appears to be little problem with Sodiam's KP procedures for the formal sector. Simple profit motive is enough to ensure that the joint venture projects keep close track of their diamond production from source to export. In addition, the CSD reportedly keeps rigorous watch over Angola's diamonds as they travel from mine to processing centre and then to export. The informal sector is another matter altogether.

When criticisms are ventured of Sodiam's KP procedures, Sodiam officials make reference to the Kimberley Process Review Visit of 2005, which they claim passed their system with flying colours. The truth is more subtle. As they note in their report, the 2005 Review Team was prevented from visiting any garimpo areas, and spoke to only two rough buyers in the field. Even this very limited exposure was enough to show the holes in Angola's KP system. The Review Visit report noted the '...extremely limited inter-

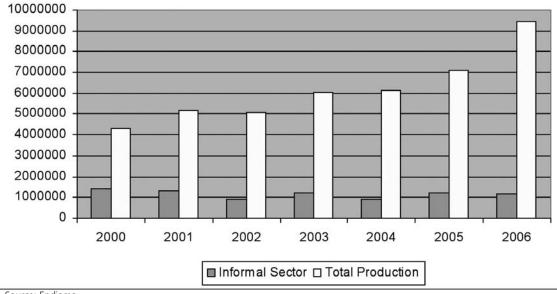


Fig. 4: Informal and Total Production (carats) 2000-2006

Source: Endiama

nal controls...', as well as the fact that for informal production,' ...the provenance of the diamonds was also not checked or verified in any form...' .

In view of this, the KP review team made the following recommendations:

- 1. Angola should submit to the Kimberley Process a comprehensive report on internal controls in the artisanal alluvial mining sector;
- Angola should ensure that the diamond-buying offices purchase rough diamonds only from individuals with credentials and that all records of transactions are kept regularly, including the provenance of diamonds;
- Angola is called upon to invite a follow-up review visit in due course and provide access to artisanal alluvial diamond producing areas to ensure compliance with the established control mechanisms in that sector.

To date, Angola has made no move to implement any of these recommendations.

At the time of the Review Visit, the team opted to overlook these shortcomings, accepting the assurances of Angolan officials that the government was in the process of putting an end to the informal sector altogether. Operation Brilhante, the large scale operation aimed at removing illegal foreign diggers from Angola, was then in full swing, and the assurances seemed at least plausible.

A look at government's own production statistics (see Figure 4) shows just how ineffective the government's anti-garimpo measures have proven. Production in 2000, years before any of anti-garimpeiro measures began, was a little over 1.4 million carats. The influx of new formal projects, complete with private security, as well as Operation Brilhante, resulted in two small dips in production, to 898 thousand carats in 2002, and 892 thousand carats in 2004. However, by 2006, despite years of concerted effort by army, police and immigration, Angola's garimpeiros were once again digging out 1.2 million carats a year, slightly more than the seven year average, and more than the total alluvial production of Sierra Leone, the Central African Republic, Tanzania and Brazil combined.

The government's failure to stamp out the informal sector is in part a reflection of Angola's diamond geology. Increased enforcement measures have put an end to garimpeiro activity in numerous areas, particularly those in close proximity to formal alluvial diamond projects. However, as police and private security guards have forced garimpeiros out of the more easily accessible areas, they have simply moved to other, more distant sites, on the rivers bordering the Congo in Lunda Norte, in Moxico province to the south, and in the province of Bié, in many ways Angola's new diamond frontier.

The other factor contributing to the government's failure is the widespread corruption afflicting Angolan society. Operation Brilhante certainly succeeded in removing large numbers of Congolese (and other West Africans) from Angolan diamond fields, as protests from the DRC bear witness. However, in the years since, many of these Congolese garimpeiros have filtered back to the diamond fields of Angola. The Annual Review notes this corruption not to embarrass Angolan government, but to emphasize the fact that informal production will not disappear in the Angolan hinterland simply because ministers in Luanda will it to do so. Possibly, as formal concessions expand, the most promising areas will all come to be occupied, and the rate of informal production will decline. Even so, it will never reach zero. At a best guesstimate, it will likely stabilize at some substantial value, perhaps a half or three-quarters of a million carats per year.

Republic Angola 2007

As presently constituted, the Angolan Kimberley system has no way of tracking those diamonds back to source. The obvious failings in Angola's Kimberley controls should be cause for concern in the wider Kimberley community. There are, after all, more than a million carats per year exiting Angola, all of it with the murkiest of credentials. More troubling still, there is nothing in the Angolan KP system that would prevent the whole-sale laundering of rough diamonds from conflict zones in or out of Angola, should a new conflict break out.

Angola urgently needs to find a way to track and regulate this production.

Managing Informal Production

According to sources in Endiama, the Angolan authorities have finally recognized the futility of trying to stamp out the informal sector, and have begun to seek ways to incorporate garimpeiros into the formal system.

In April, 2007, Angolan President Jose Eduardo dos Santos created a new high-level committee, the Interministerial Commission for the Protection of Diamond Resources,²⁴ or CIPRED, with participants from all of Angola's senior ministries. According to sources in Endiama, much of the committee's efforts will be directed towards dealing with informal production and garimpeiros.

One of the options being considered is a return to the provisions outlined in the 1994 Diamond Law, by which a limited number of garimpeiros would be licensed to work on those parts of a diamond concession deemed commercially unviable. Over time, licensed garimpeiros would be encouraged to invest some of their profits in small scale mechanization

Although there are challenges to such a scheme, it is certainly worth considering. As currently envisioned, the responsibility for designating the garimpeiro areas, buying the garimpeiro production and facilitating the shift to mechanization would all fall to the concession holder. Unfortunately, concession holders consulted by the *Annual Review* were loathe to involve themselves in any way with garimpeiros. As a substitute, Endiama could consider creating its own specialized small scale mining division, which might be called Endiama Mineração de Pequeno Porte (Endiama MPP).

A new Endiama division like this could work with concession holders to determine optimum areas in which licensed garimpeiros could work. Endiama MPP could take on an advisory role, teaching garimpeiros about appropriate technologies (such as the portable mining jig that is in exten-

sive use in Brazil and Guyana) and advising on techniques to maximize yield and minimize environmental damage. As Endiama's knowledge of the garimpeiro sector increased, Endiama MPP could eventually even take on the role of *patrocinador*, advancing capital to licensed garimpeiros in return for a share in the profits. Working with garimpeiros in this way, Endiama could bring a significant number of garimpeiros into the formal licensed sector.

However, while these proposals, in conjunction with the continued spread of formal mining concessions, hold out the hope for a reduction in the informal sector, CIPRED committee members and Angolan authorities should accustom themselves to the idea that large numbers of unregistered garimpeiros will continue to dig without permission on unregistered sites for years to come. Angolan authorities must develop the capacity to track where these stones are coming from.

As a matter of some urgency, the CIPRED committee, as well as officials from Sodiam and the two informal sector buying agencies, Ascorp and LKI, need to begin considering ways to bring the Kimberley Process controls for the informal sector up to international standards

At a minimum, all purchases in the field, by all levels of buyers, should be recorded on standardized forms. These forms should be collated, and the data they contain transmitted at regular intervals, either in hard copy and electronic format, or preferably both, to a diamond statistics office in Luanda (within Sodiam, Endiama or the Ministry). In this way, Kimberley authorities will have a paper trail showing the movement of diamonds from point of first purchase to export.

As the logical next step, Angolan authorities should then look into computerizing this information in a specialized database. Brazil, Guyana, and Liberia have recently installed databases such as these for registering and tracking diamonds. With the forms and the data stored in Luanda, Angolan authorities can begin to track the purchases and sales of individual traders, and develop a statistical profile of where the country's garimpeiro diamonds are coming from.

Diamonds and Development

Government Revenue

The diamond tax system in Angola consists of a combination of tax levies, royalties, and export duties, and corporate taxes. Many of these are set out in 1996 decree (Decree No 4- B/96 of 31 May) which sets the corporate income tax rate for the mining sector at 40% (reduced in 1999 to 35%), while giving generous write-offs for prospecting costs²⁵ and depreciation allowances for capital investment costs.²⁶ The decree sets royalties for diamonds and other precious stones at 5%, and stipulates that dividends paid by mining companies are subject to a capital gains tax, set in 1999 at 10%.

As the value of Angola's formal diamond production has increased over the past half-decade – from just under US\$690 million in 2002 to just over US\$1 billion in 2005 – the revenue accruing to the Angolan government has increased as well, from US\$45 million in 2002 to US\$150 million in 2005.

In percentage terms, government receipts in 2005 represent just under 14% of the total gross production. These figures do not include the 1.2% fee paid to Sodiam, or the profits paid to Endiama for its participation in joint ventures projects. A 2005 paper by the IMF suggested that these revenues, as a percentage of production, were low in comparison to other African diamond producers such as Botswana. Even so, at US\$150 million per annum, diamonds are second only to oil in terms of natural resource revenue contributions to the Angolan exchequer.

To put this value in perspective, Angolan receipts in 2005 from the diamond sector were three times as much as was allocated under the 2005 budget to all government spending in either Lunda Sul or Lunda Norte, the provinces from which the diamonds originated.

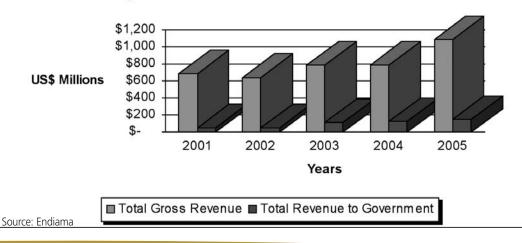


Fig. 5: Diamond Sector Revenue and Taxes

Previous *Annual Reviews* suggested that a fixed percentage of the tax revenue from diamonds (i.e. 10%) was to be channelled back into the budget of the producing province. However, according to the Governor of Lunda Norte, Gomes Maiato, that program has now been discontinued. In the 2006 budget, the government allocated less to Lunda Norte than to any other Angolan province. Lunda Sul, at third to last, fared only slightly better.

Employment

In addition to tax revenue, the other significant contribution of the revitalized diamond industry has been in jobs. In 2002, there were some 5,600 people employed in diamond mining joint ventures. By 2005, this had nearly doubled, to 10,220 diamond project workers.

This growth in numbers has been accompanied by an aggressive policy of Angolanization. Diamond companies are required by their contracts to seek out qualified Angolans for all openings. Where Angolans do not yet have the skills, joint ventures are encouraged to implement training programs, or guarantee jobs for Angolans who return to university to upgrade their skills.

The results of this policy are best illustrated by Angola's largest project, Catoca. In 2005 Catoca employed 3300 people, 3000 of them Angolans. Angolans occupy the bulk of the lower level skilled trade positions, but they are also well represented at the technical and management levels: 48% (101 of 209) of college level positions are held by Angolans, as are ten of the nineteen management positions.

Salaries at Catoca are considered good by Angolan standards, though they are low by international standards. Overall workers salaries fall between US\$350 and US\$1500 per month. Service personnel make less than US\$500/month. An ore truck driver earns from US\$700 to US\$1000. An operator of one of the large excavators earns from US\$1000-US\$1500. Managers and engineers obviously earn a higher pay scale. In total, Catoca spent US\$58 million on wages and salaries in 2005, for an average salary of close to US\$1500 per month.

Like many of the projects, Catoca points to its high percentage of 'local hires' as proof of its commitment to residents of Lunda Sul. In fact, this is some accounting slight of hand in this. Local hire means that the employee was interviewed and his contract signed and finalized locally in Saurimo. It does not mean local resident. Knowing that Catoca hires in Saurimo, many prospective workers from Luanda fly to Lunda Sul to apply for work. Data on the number of Tchokwe speakers (the language spoken in the Lundas) would be a better test of the percentage of Lunda residents in Catoca's employ. However, the company says it does not collect data on language for fear of fostering tribalism.

That said, all but the most basic jobs at Catoca, as at other mines, are technical enough to require at least a high school education. This puts

them beyond the reach of the vast majority of the simple villagers living in the Lundas.

Corporate Contributions

The only really visible development impact in the Lundas comes not from government or NGOs, but from the small amount of charitable work carried out by the diamond projects themselves. Though not required by their contracts, many of the projects do limited development work in the immediate vicinity of their mining sites, building schools or water supply systems.

The leader in this has been the Catoca project. The large Kimberlite mine has built a pair of six-room primary schools in nearby villages, and another school combining primary and middle grades. Catoca provides teaching supplies to the schools, and supplements the teachers' very basic government salaries with a food allowance. Catoca operates a soy milk distribution centre, which daily donates 1500 litres of soy milk to 4000 children in the vicinity (and generates many photos of happy children drinking from milk containers prominently bearing the Catoca logo). Finally, Catoca has built a half-dozen small water distribution systems (essentially small pipelines from a river to a public fountain) in villages surrounding the mine.

Smaller diamond projects are proportionally less generous, in part because they lack Catoca's revenue stream, but more because as alluvial projects they have a shorter time horizon. The Catoca mine will be in operation for decades to come, and so needs to establish good relations with its neighbours. With a usual lifespan of less than ten years, alluvial projects are less dependent on local goodwill.

Catoca, like the other mining projects, has shown itself better at the 'hardware' side of development work – building schools, installing piping and faucets – than at the 'software' side of consulting with villagers and working towards the social conditions needed for long term sustainability. In the village of Cachita, for example, Catoca installed a public fountain, fed from a nearby river by a two kilometre system of piping. The system built in 2003, worked for a year and then broke down. No one in the village had been trained to fix or maintain the system, so it has remained broken ever since. The villagers complain that Catoca has abandoned them at the mine, while Catoca managers wonder why the villagers haven't fixed the system for themselves.

This small conflict highlights a larger public misunderstanding about the role of diamond mining companies. Locals see diamond projects such as Catoca as a branch of the Angolan government. Angolan politicians have often encouraged this misunderstanding, particularly at inauguration ceremonies for new schools and other pieces of company-built infrastructure. For their part, Catoca managers point out that Catoca pays close to US\$100 million in taxes to the Angolan government each year, and ask why more of this development work isn't being done by the government. Which is, in fact, a very good question.

Angolan officials, in both government and industry, exhibit a degree of secretiveness and suspicion that often strays into outright paranoia. The reflex to withhold and conceal may be a legacy of the country's past as a oneparty state, or its tutelage under the Soviet Union and Cuba. Either way, withholding information to the degree it is done in Angola is incompatible with the proper functioning of a market economy, not to mention a democracy.

Before visiting the diamond areas of Lunda Norte, the Annual Review paid a courtesy call on the governor of Lunda Norte, Manuel Francisco Gomes Maiato. Our researchers were cordially received, and given explicit permission to visit any part of the province they desired, including any garimpo sites. The team duly travelled to the large scale garimpo in Maludi, where they were promptly arrested.* The simple word of the governor was apparently not sufficient. What was required, according to the Maludi police, was a formal written document, signed by the governor or the provincial head of the national police. Without such a document, our presence near a garimpo site was illicit. With such a paper, we could certainly return.

Expelled from Maludi the next day,** the Annual Review team returned to the capital of Lunda Norte, and spoke to the provincial

Secrecy

commander of the national police force. He confirmed the governor's promise of free access to the entire province. He confirmed there was nothing illegal in our visit to the Maludi garimpo. But he could not, alas, provide written permission. As there was nothing illicit in our movements, there was no need for such a document. Nor, regrettably, could he discipline the Maludi officers, or even in fact speak to them. But the *Annual Review* should feel to return there anytime.

The mania for secrecy is such that even the good things that Angolans do are hidden. For example, in conversation with officials from Catoca, the *Annual Review* was told that the company had in 2003-2004 invested US\$2 million in refurbishing Saurimo hospital. It seemed like a sterling example of enlightened giving by a model corporation, one the *Annual Review* would have been pleased to highlight in this report, if only the information could be confirmed.

Alas, there was no record of any such expense in Catoca's 2004 or 2005 annual report. Nor was the expenditure listed in the company's 2003 or 2004 audited financials.***

Curiously, in conversation with the *Annual Review*, the Project Director of Fundação Brilhante also took credit for a \$2 million upgrade to Saurimo hospital. It is possible, of course, that both were correct. The Fundação, after all, spends money donated by the diamond industry. A look at the Fundação's annual report might have confirmed this expenditure, but unfortunately that document – the annual report of a charitable foundation – is off limits to the public.****

As a final recourse, the *Annual Review* contacted Saurimo hospital. Surely they would know whether \$2 million had been spent on their facility. The annual budget of Saurimo hospital is given in the Angolan government budget as US\$300,000. US\$2 million would thus be fairly hard to overlook. However, the hospital administrator, who refused to give his name, said he could not provide any information about any charitable donations, or recent upgrades, or indeed any information about anything at all. Information about budgets and spending would have to come from the ministry of health in Luanda. At this point the *Annual Review* gave up.

Did Catoca donate US\$2 million? Did the Saurimo hospital get refurbished? Will Angolan officials ever learn that hiding statistics and obstructing simple requests for information actually damages their own best interests?

* According to the Maludi officers, the Annual Review team was not actually under arrest. True, they were kept in police custody, under constant police guard, but that did not, according to the Maludi definition mean they were under arrest.

** Not 'expelled' according to the Maludi officers. Just given no option but to leave, and taken in police custody all the way back to the county seat at Nzaji, where after another few hours 'not in custody' the Annual Review team was eventually released

*** After reading a draft of this report, a Catoca reviewer responded that the donation of US\$2 million for Saurimo Hospital was approved in 2001, and not, as Catoca officials had claimed earlier, in 2003. The Catoca reviewer further stated that the full US\$ 2 million was paid out in two installments: US\$1.375 million in February 2002, and a further US\$625,000 in June, 2002. The information could be confirmed in the 2002 Price Waterhouse Cooper Audit, the Catoca reviewer said. He did not, however, provide a copy of that document.

**** Actually, the director said that the annual report could only be released with the express written permission of the Foundation's president, and only in response to a formal written request. The Annual Review submitted such a formal written request, but despite repeated e-mails, had no further communication from Fundação Brilhante.

Local Community Impact

Angola's diamonds are clearly a resource to be used for the benefit of all Angolans. However, the nearly one million residents of Lunda Norte and Lunda Sul suffer disproportionately from the exploitation of Angola's diamond resources. The projects themselves restrict their access to cropland, prohibit their use of local rivers, and in the longer term cause damage to local soil and water systems. The imposition of restricted and reserve zones subjects residents of the Lundas to arbitrary search and seizure by police and private security firms. Their homes and fields can be moved at the order of a diamond mining project. Their range of economic activity is largely restricted to simple subsistence agriculture.

It would be just, therefore, considering the hardships they endure, for the government as caretaker of this resource to devote proportionally more of the diamond benefits to the people of the Lundas. Public investment would also be the best way to convince residents of the Lundas to give up on garimpo. Unfortunately, the opposite appears to be happening.

Successive Angolan budgets show the Lundas receiving among the lowest amounts of public investment. Villages in the vicinity of diamond mining projects – near Cafunfo and Cuango, near Lucapa, and Nzaji and Saurimo and Dundo – show next to no sign of government spending. There are no government public schools, or water supply systems, or public health clinics. Roads date from the colonial era, and have not been repaired since independence. Agricultural extension programs are nonexistent.

This latter is particularly puzzling. In order to discourage illegal garimpo, it would make sense to encourage local residents to devote more energy to small scale agriculture. The numerous diamond projects provide a ready market for farmers. However, due to the low productivity of local growers and the abysmal condition of roads, many of the projects have resorted to growing their own food on fields inside their concessions.

The experience of the past five years has shown that enforcement measures – just using the stick – has a limited effect in reducing garimpeiro activity. As part of its package of anti-garimpeiro measures, Endiama and other government agencies should consider partnering with the appropriate agricultural agency to implement agricultural extension projects in the Lundas, perhaps by providing seed or tools or know-how, or by facilitating contacts between diamond projects and associations of local growers. As part of this package, the Angolan government should invest some of its diamond revenue in rehabilitating the roads in the Lundas, to give farmers easier access to local markets.

Fundação Brilhante

Recognizing that neither Endiama nor joint venture projects were experts in social development, in 2004 Endiama created the Fundação Brilhante, or Diamond Foundation, to take charge of all of Endiama's cultural and community development projects. It was hoped that the joint venture projects would begin to channel their social spending through the Fundação as well.

Republic Angola 2007

The Foundation's Director of Projects, J. Francisco Ganga, has a background in the NGO sector and seems to have a good grasp of many of the latest techniques for managing community development projects, such as including end-users in initial planning, and ensuring that development projects use appropriate technology that can be maintained by local people over the long term.

To date, the Fundação Brilhante had been instrumental in the rehabilitation of a museum in Dundo, Lunda Norte, and has taken a lead role in the refurbishment of the Iron Palace, an iron-frame heritage building in Luanda, designed by Gustave Eiffel. The Foundation's plan calls for the refurbished palace, located across the street form Endiama's headquarters, to be turned into a club for the use of diamond-sector executives. A pamphlet produced by the Foundation claims it has built ten four-room schools in different villages, three in Luanda, two each in Lunda Norte and Lunda Sul, three elsewhere in Angola.

Beyond these projects, it is difficult to say what the Fundação Brilhante has undertaken, or how much money it has spent, or how many communities it has aided. The Director of Projects refused to discuss specific projects or funding, and refused to provide an annual report detailing the foundation's activities. Such secrecy is odd in a charitable foundation, though it is in keeping with Angolan government culture (see 'Secrecy' pg. 18). A promotional DVD provided by the Foundation laid claim to various projects not yet undertaken, such as the rehabilitation of roads and airports in the Lundas, as well as to projects completed by others, such as the provision of soymilk to local children in Lunda Sul, a project funded by Catoca. What the Foundation itself has genuinely accomplished remains a mystery.

The Environment and Mining

When it comes to the environment and diamond mining, Angola is a bit of a Wild West. Overall authority for the environment in Angola rests with the Ministry of Urbanism and Environment. That ministry is wholly absent from the diamond mining Lundas. Within the diamond sector, the Ministry of Geology and Mines has, at least on paper, the responsibility to ensure compliance with the country's environmental laws and regulations. In practice, it has fallen to Endiama, as the owner of mineral rights and as the representative of the Angolan State on diamond concessions, to ensure sound environmental practices.

Endiama's response to the environmental challenge posed by diamond mining is a perfect illustration of the problems that accompany Endiama's double role as both miner and regulator. As a controlling shareholder in every mining project, Endiama has a strong financial interest in keeping costs, including environmental expenditures, to a minimum. However, Endiama is also charged with minimizing lasting damage to the nation's soil and rivers by ensuring that diamond projects comply with Angola's environmental regulations. There is simply no way to reconcile these two roles.

The contracts negotiated with joint venture companies do contain a clause requiring an environmental impact study. Theoretically, according to Endiama's Director of Geology Miguel Paulino Augusto de Almeida, if Endiama the regulator feels Endiama the shareholder is not in compliance with environmental standards, Endiama can dispatch personnel to investigate itself and report back on its performance. If Endiama finds that Endiama is violating the regulations, it can issue a report telling itself to shape up. There are no provisions for fines in the regulations, however, so Endiama can't actually fine itself, even if it continues to ignore its warnings.

This would be faintly comical if the problem were not also real. Interviewed by the *Annual Review* in his office in Dundo, Lunda Norte, the provincial governor Gomes Maiato said that erosion was an issue at several alluvial mines, and that more rigorous enforcement of the environmental regulations was one of the changes he wanted. A member of the governor's staff, who had personally visited every mine in the province, there were serious erosion problems at all the alluvial mining projects.²⁷

In Luanda, however, officials at Endiama had a much more sanguine attitude. Asked whether Endiama had any plans to train or bring on any specialists in environmental engineering, Geology Director Almeida replied that because any course in mining engineering these days contains an environmental component, every mining engineer is by definition an environmental engineer. Endiama therefore had all the expertise it needed.

As for the damage wrought by diamond mining, Director Almeida referred to a pair of studies: the first, possibly by a Portuguese university, showed that because of fecundity of the Angolan countryside, pits from garimpo tended to recover spontaneously. The other, a catalogue of mining-engendered environmental damage throughout Angola, apparently proved that the vast majority of the damage had been wrought during the colonial era, and was therefore no fault of Endiama's. The Director had not actually read these studies, nor seen them, nor were there copies available in Endiama's library. But he had heard of them, and was sure that they supported his case.

Endiama's attitude is proof, if any were needed, that empowering one agency as both regulator and industry participant is simply an untenable situation. Far from balancing short term profit with long term sustainability, the eagerness with which Endiama executives grasp at the flimsiest of fig leaves suggests that the government corporation has come down firmly on the side of profit. All the more reason, then, for the Angolan government to strip Endiama of its role in environmental oversight.

Sources in the Ministry of Geology and Mines say that a seminar on environmental issues in the diamond sector was held in Saurimo in July, 2007, and that as a result diamond companies have begun working on putting together environmental programs. While this is laudable, if belated, progress, experience elsewhere in the world suggests that mining companies will never take environmental mitigation seriously without a credible threat of fines and/or stop-work orders by an outside regulatory agency.

Recommendations

To the Government of Angola

- 1. As a first priority, the Angolan government urgently needs to develop an effective, transparent, believable system for tracking informal (artisanal) alluvial diamonds from production to export. The system as it stands is non-functional, and violates Angola's commitments under the Kimberley Process.
 - a) As a first step, Angolan authorities should develop a paper-based tracking system, with all buyers at all levels recording the purchase and sale of all artisanal diamonds on standardized forms, thus providing a paper trail as diamonds move from garimpeiro, to first-level buyer, to mother house (casa mae) to Sodiam in Luanda. Forms should include the date, location of purchase, weight, quality and the identity of the seller and buyer. At regular intervals, the data from these forms should be collated and sent, together with copies of the forms themselves, to the Kimberley Process authority in Luanda. Such a paper system will be a major advance in tracking and controlling Angolan garimpeiro production. For examples of such a system, Angola may wish to study the KP systems currently in operation in Guyana, Liberia and Brazil.
 - b) Using information from the paper-based system, Angola should develop a computerized database to track artisanal production from source to export. The data collated from the transaction forms would form the basic input to this system. With such a system in place, the Angolan KP authority, as well as the CSD or other investigative authority, could perform checks to see that all of the diamonds that enter the system duly exit the system in legal ways. The system would also provide Angola with the ability to analyse which parts of the country have the most active garimpeiro sector. Again, Guyana, Liberia and Brazil all have working prototypes in place which Angola could profitably study before implementing its own.
 - c) It is a clear conflict of interest for Sodiam the owner and exporter of Angola's diamonds – to act as the effective KP certifying authority for these same diamonds. For the sake of credibility and transparency, the task of certifying Angolan diamonds should be carried out - in practice as well as on paper, entirely by the Ministry of Geology and Mines.

- d) Angola should invite a follow-up Kimberley Process review visit and provide access to artisanal alluvial diamond producing areas to ensure compliance with the established control mechanisms in that sector. (First recommended by Kimberley Review Team 2005)
- 2. Angola should take steps to regularize its tens of thousands of garimpeiros. The creation of the high level CIPRED committee in April, 2007, may be a positive step in this regard. The legal situation in which possession of rough diamonds is illegal, but purchase by license buyers is not, puts garimpeiros into a legal corner, exposes them to exploitation by buyers and corrupt police.
 - a) Endiama should consider creating a garimpo-oriented subsidiary, perhaps an "Endiama Mineração de Pequeno Porte (Endiama MPP)". This new Endiama division could work with concession holders to determine optimum areas in which licensed garimpeiros could work. Endiama MPP could play an advisory role, teaching garimpeiros about appropriate technologies (such as the portable mining jig in extensive use in Brazil and Guyana) and advising on techniques to maximize yield and minimize environmental damage. As Endiama MPP could eventually even become patrocinador, advancing capital to licensed garimpeiros in return for a share in the profits. Working with garimpeiros in this way, Endiama could bring a significant number of garimpeiros into the formal licensed sector.
 - b) Angola should begin to license and legalize garimpeiros, perhaps restricting them to particular areas approved for informal mining.
- 3. The Angolan government needs to address the issue of the distribution of benefits from Angola's diamond sector. Currently, the government, companies, and the government's friends benefit, with little returning to people in areas where diamonds produced.
- 4. The Angolan government and Endiama should stop giving away large percentages of diamond joint ventures to politically connected Angolan companies. All current purported 'linkages' between concession areas and Angolan companies should be annulled. In future, the right to participate in a joint venture should be put out to tender, or put up for auction. The proceeds of these auctions could be channelled to the Fundação Brilhante, to pay for social projects in diamond producing areas.
- 5. Angolan public authorities should learn to share information concerning the diamond sector with the public. Endiama should publish yearly statistics, not only on total production but on the production of each concession, and the fiscal contributions made each year by the various

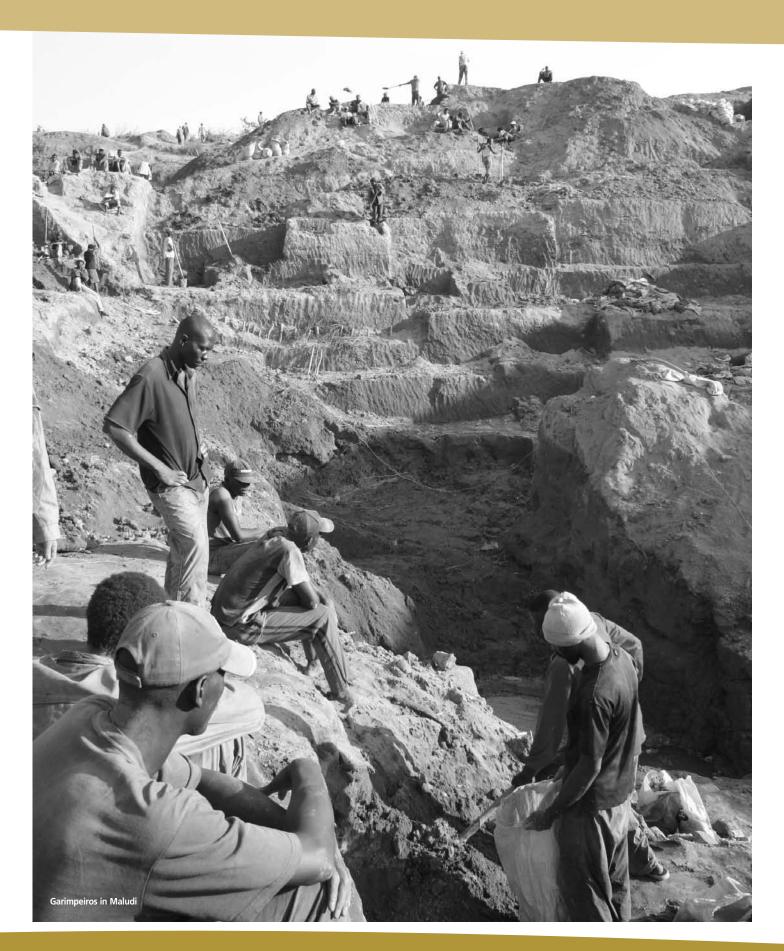
joint venture companies to Angolan government revenue. Fundação Brilhante should publish an annual report, with audited financials detailing which projects it has completed and how much money it spent in the process. Both Endiama and Fundação Brilhante are publicly-owned enterprises. As such they have a duty to the public, including the duty to keep the public informed of their activities.

Republic Angola 2007

6. Regulation of the environmental impact of diamond mining should be transferred from Endiama to an effective outside agency, be it in the the Ministry of Geology and Mines, or the Ministry of Urbanism and the Environment. This outside agency should train an adequate number of personnel to perform regular inspections. The regulations must be enforced, and should be changed to enable these inspectors to impose fines and stop-work orders, in cases of non-compliance.

To The Kimberley Process

- 1. The Kimberley Process Review Team in 2005 made a series of astute recommendations concerning Angola's informal diamond sector. As the Angolan authorities have made no progress on these recommendations, and the Kimberley Process has made no attempt to remind Angola of the concerns of its own Review Team, the recommendations bear repeating. The Review Team called for the following:
 - a) Angola should submit to the Kimberley Process a comprehensive report on internal controls in the artisanal alluvial mining sector;
 - b) Angola should ensure that the diamond-buying offices purchase rough diamonds only from individuals with credentials and that all records of transactions are kept regularly, including the provenance of diamonds;
 - c) Angola is called upon to invite a follow-up review visit in due course and provide access to artisanal alluvial diamond producing areas to ensure compliance with the established control mechanisms in that sector.
- 2. The Kimberley Process should remind the government of Angola of the recommendations of its own Review Team.
- 3. It is pointless to have Review Teams issue recommendations, and then do no follow up. On a yearly basis, The KP Monitoring Working Group should prepare a checklist of recommendations made by all Review Teams, and the progress made by each Participant towards satisfying the recommendations. This should be published yearly, in advance of the Kimberley Process plenary.



Notes

- 1 Lunda Norte: Area 102, 783 km2, Population 700,000 (approx.); Lunda Sul, Area 77.6372 km, population 120.000
- 2 Permission is automatic for government employees, Endiama personnel and for those employed in the diamond industry
- 3 As per Decree No. 36/03 of June 27th, 2003
- 4 Angola: Selected Issues and Statistical Appendix, International Monetary Fund, April 2005 (IMF Country Report No. 05/125), as well as IMF Country Report No. 03/292, September 2003
- 5 Angola: Selected Issues and Statistical Appendix, International Monetary Fund, April 2005
- 6 Absent pressure from the IMF, however, Endiama is no longer providing details of its profit-loss situation.
- 7 99% owned by Endiama EP
- 8 Diário da República I Serie No 147, 9 December 2005
- 9 The contract further gives the Logistics VP and overall VP spots to Endiama, while the Angolan firms are jointly awarded directorship of the Human Resources department.
- 10 Italics added. 'A participação de empresas nacionais deverá ser incentivada desde que estas reúnam as condições técnicas e financeiras necessárias'
- 11 Diário da República I Serie No 147, 9 December 2005
- 12 The only non-general is Carlos Vaal de Silva
- 13 Regarding what Lumanhe did to earn this money, see the website of ITM Mining, Lumanhe's partner in each of the three projects, which states, inter alia: 'In Calonda project, ITM is responsible for: the management of the mining, administrative and complementary activities, the technical specialized staff, the development of the necessary infrastructure and the recruitment, selection and training of staff. Additionally, ITM has been also responsible for any financial investment made in this project.' There appears to have been little role, if any, for Lumanhe.
- 14 Diário de República 1 Serie No 156, 30 December 2005
- 15 IMF Country Report No. 03/292, September 2003 The Calonda Project's total fiscal contribution to the Angolan government in the years 2001, 2002, and 2003 as US\$2.81 million, US\$2.41 million and US\$6.38 million respectively. The figures for Chitotolo are US\$5 million, US\$5.8 million and US\$15.81 million.
- 16 V.S.S.B. Vigilância e Sistemas de Segurança Bancaria, Grupo K&P, S.A.R.L; Articles of incorporation found in Diário da República, III Serie, No 40, 21 May 2002
- 17 Normal conflict of interest rules do not seem to be an issue in Angola. The ownership of K&P by serving senior police officers is perhaps the most egregious case, in that K&P has many contracts to provide security to firms within Luanda. Private security firms do best in situations where the police are perceived to be failing. The chief of police thus has a direct financial interest in doing his job poorly. The *Annual Review* is not suggesting this would happen, but the incentive exists and the optics are poor.
- 18 Teleservice Sociedade de Telecomunicações, Segurança e Serviços, S.A.R.L., articles of incorporation in Diário da República, III Serie, No 33, 12 August 1994
- 19 Some of the Teleservice principals are also owners of the mining company Lumanhe
- 20 Diário da República, Serie III No. 33, August 20, 1993
- 21 Operation Kissonde: the Diamonds of Humiliation and Misery, Rafael Margues, 2006; Lundas: The Stones of Death, Rafael Margues and Rui Falcão de Campos, 2005
- 22 Full contract, stripped of much key data, filed at http://www.secinfo.com/dsvra.z13h.b.htm
- 23 The casa mae encountered by the Annual Review in Cafunfo refused to explain their processes for recording diamond purchases. The LKI executive interviewed in Luanda was so unfamiliar with field procedures that he was unaware that there were sub-buyers, much less whether they recorded purchases for the process of Kimberley Process transparency. A second LKI executive who was said to have a better knowledge of field procedure was called repeatedly, but could not be reached and did not respond to messages.
- 24 Commisão Interministerial para Proteção de Recursos Diamantiferos.
- 25 50% deductible in the first year, 30% and 20% in years following
- 26 a) fixed mining equipment 20%, b) moveable mining equipment 25%, c) mining tools 33.3%, d) office equipment 20%, e) other furniture 20%, f) non-corporeal good 25%
- 27 The source singled out the Kimberlite project Luô as the sole exception to this troubling rule. Similarly, in Lunda Sul, the large Catoca Kimberlite project is reported to have a good environmental track record. The problem in Angola seems to lie with t



The Diamonds and Human Security Project of Partnership Africa Canada is supported by Irish Aid, the International Development Research Centre, Foreign Affairs Canada, the Canadian Autoworkers Social Justice Fund and other organizations.

This edition of the Diamond Industry Annual Review for Angola was co-funded by Cordaid (Netherlands). The Canadian Association of Journalists and CIDA also supported the research through a fellowship grant to the principal researcher. Further information can be found at the following website:

Partnership Africa Canada www.pacweb.org

PAC can be reached at: info@pacweb.org

Photo Credits: Shawn Blore *Disponível em português* November, 2007



Copyright: Partnership Africa Canada

raphic Design: Marie-Joanne Brissett

ISBN: 1-897320-02-7 Diamond Industry Annual Review: Angola 2007