## **OTHER FACETS**

NEWS AND VIEWS ON THE INTERNATIONAL EFFORT TO END CONFLICT DIAMONDS

Number 15 October 2004

### AL QAEDA AND HEZBOLLAH

#### **Charges and Countercharges Abound**

When the *US National Commission on Terrorist Attacks upon the United States* (also known as the *9-11 Commission*) issued its report in July, it stated that "No persuasive evidence exists that al Qaeda... funded itself through trafficking in diamonds from African states engaged in civil wars." The one-line statement cites as its authority several confidential FBI and CIA reports. The claim was immediately assailed by a number of authorities on the subject, including the UN-backed Special Court in Sierra Leone and journalist Douglas Farah, who detailed the al Qaeda connection in his recent book *Blood from Stones: The Secret Financial Network of Terror* (see review in *Other Facets* No. 14). In a chapter entitled "The CIA Drops the Ball", Farah described the lack of interest by the US intelligence community, both before and after 9/11, in the diamond connection. He charged that the "no persuasive evidence" line was an attempt to divert attention from CIA bungling. Global Witness, which earlier published a lengthy dossier detailing the al Qaeda and Hezbollah diamond connection, quoted Pentagon-based four star Air Force General Charles Wald. Speaking about diamonds, Wald said "They may be connected through Lebanese or Hezbollah or whatever the case may be, but the fact of the matter is that I think that's a source of diamonds for al Qaeda."

The story gained more currency at the end of July with the arrest in Pakistan of Ahmed Khalfan Ghailani, a Tanzanian wanted in connection with the 1998 US embassy bombings in Kenya and Tanzania. Ghailani, a senior al Qaeda operative, has been placed in Liberia and in the diamond areas of Sierra Leone in 1999 and 2000.

Similar charges have flown back and forth over a diamond connection to Hezbollah. Lebanese diamond merchants based throughout West Africa, it is said, have helped finance Hezbollah activities in the Middle East. The Deputy Chief of the US mission in Sierra Leone told Associated Press in June. "One thing that's incontrovertible is the financing of Hezbollah. It's not even an open secret; there is no secret," he said. Hezbollah quickly denied the charges, saying that the claims were part of a "frenzied campaign aimed in the first place at covering up the crimes and plots hatched by the American intelligence circles against states, movements and parties brought together in an axis resisting the American-Zionist project."

Police, Special Court, FBI and other reports on the al Qaeda diamond connection can be found at <a href="www.douglasfarah.com">www.douglasfarah.com</a>.

## CHARLES TAYLOR SAGA Warlord Continues to Evade Justice

Liberia's former warlord president, Charles Taylor, continues to languish in a Calabar villa as a guest of the Nigerian government, while legal efforts to have him removed to Sierra Leone for trial continue. In August 2003, Taylor's government collapsed as fighting between his forces and two rebel armies created one of the worst humanitarian crises on the continent. In order to get the embattled president out of the country quickly, Nigeria gave him sanctuary.

Taylor, however, had previously been indicted by the UN-backed Special Court in Sierra Leone, which has repeatedly asked the Nigerian government to surrender him for trial. Taylor has been charged with 17 counts of murder, rape and other crimes against humanity in connection with his support of Sierra Leone's Revolutionary United Front. During the first half of 2004, Taylor's lawyers argued in Freetown that a court in one country had no right to try the head of state of another country. The four judges on the Court's appeals panel ruled in May, however, that as an international tribunal, the Court does have that authority.

Nigerian President Olusegun Obasanjo has said repeatedly that he would only hand Taylor over if requested to do so by the Liberian government. The silence from Monrovia on the issue is taken as a sign of fear that Taylor's presence in a public courtroom might destabilize the peace process in Liberia. In June, however, Emyr Jones Parry, head of a 14-member UN Security Council delegation visiting West Africa, said that

"There should be no impunity for people who have been alleged to have committed the sorts of crimes {in}... the indictment issued against Taylor."

In July, two Nigerians who had their arms hacked off during the conflict, challenged the asylum in Nigeria's Federal High Court in Abuja. Backed by civil rights organizations, they demanded that the Nigerian government end Taylor's asylum. Meanwhile, the African Union Executive Council went out of its way to congratulate the Nigerian government for granting Taylor asylum, asking the international community "to continue to support and encourage Nigeria in the regard."

Shocked by this "betrayal of the tens of thousands of African victims of the worst crimes imaginable", Amnesty International Secretary General Irene Khan wrote to all the member governments of the African Union in August, asking them to repudiate the statement and urging the Nigerian government to hand Taylor over to the Special Court.

In September, Jacques Klein, the UN special representative to Liberia, told reporters after briefing the Security Council that bringing Taylor to justice was "key" to ending the impunity that has marked the last 25 years of conflict and turmoil in the country. Klein said that Taylor remains actively involved in Liberian politics. "We know that there are people who commute basically between Monrovia and where he is," Klein said.

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#### **Kimberley Process Annual Meeting**

Diamond experts from more than 40 countries, along with industry representatives and NGOs from Europe, Africa and North America, will gather in Ottawa at the end of October for the third full plenary meeting of the Kimberley Process Certification Scheme since its inception in January 2003. The most troublesome issue facing delegates will be the scheme's continuing difficulties in gathering reliable and comparable trade and production statistics. Monitoring will also be on the agenda. Because almost half the participating countries have volunteered for review visits since the last plenary, there will be pressure on the rest to volunteer as well. And there will be delicate discussions about membership: the expulsion of the Republic of Congo in June; the continuing absence of Lebanon; and new or pending applications from countries such as Gabon, Tunisia, Mali and Indonesia.

#### ANTWERP DIAMOND TRAINING COURSE

Partnership Africa Canada and Global Witness, two NGOs closely involved in the conflict diamond campaign and the Kimberley Process, organized a diamond training program in Antwerp in June. The course aimed to build greater expertise among representatives of civil society for their participation in Kimberley Process review missions. Reviews aiming to determine a country's compliance with Kimberley Process minimum standards have so far been carried out in the Central African Republic, the Republic of Congo, the United Arab Emirates, Israel, Botswana, Mauritius, South Africa, Zimbabwe and Lesotho. Reviews are planned in the near future for the European Union, Switzerland, the DRC, Sierra Leone, Guinea, Canada, India, Sri Lanka and a number of other countries.

The three-day training program, jointly presented by WWW International Diamond Consultants Ltd. and International Diamond Certification Ltd., familiarized participants with a basic knowledge of diamond evaluation techniques, and an understanding of basic management system auditing. The course, which was also attended by representatives of the EC and the Government of Canada, will be repeated in November 2004.

#### **GUINEA WARNINGS**

Guinea has been the subject of increasingly alarming reports in recent months. President Lansana Conté, seriously ill with diabetes, heart problems and possibly cancer, has ruled the country with an iron hand since 1984, but there are indications that he may be losing his grip. Guinea has managed to keep West Africa's regional destabilization at bay over the past decade, mainly by responding with overwhelming force to incursions from Sierra Leone's RUF rebels and rebels backed by Liberia's former warlord president, Charles Taylor. Conté also responded to Taylor by backing Liberian LURD rebels and providing them with a safe haven in Guinea.

Now, however, the country's corruption and economic woes are coming home to haunt the aging president. Increasing inflation, aid cuts, food riots in Conakry and violent demonstrations in other towns are signs of growing poverty and destabilization. Although Guinea has one third of the world's

bauxite reserves and exports diamonds and gold as well, mineral exports dropped from US\$894 million to \$568 million between 2002 and 2003. In addition, there has been an influx of weapons and idle gunmen from Liberia into the diamond-rich Forest Region, which is said to be an ethnic powder keg waiting to explode.

In May, Prime Minister Francois Fall resigned during an official trip to Paris, after ensuring that his family was safely out of the country. Fall has now begun talks with dissident political movements abroad, although the opposition in Guinea, barely tolerated by the government, has itself been in disarray for many years. Fall's resignation was never officially announced, and he has not been replaced.

## DE BEERS CLEARS THE DECKS BUT WATERS REMAIN MUDDY

**Legal Briefs: USA & DRC** 

Diamond giant De Beers has cleared up two complicated legal cases, pleading guilty in one, and being exonerated in the other. De Beers settled a longstanding legal issue in the United States in July this year by pleading guilty to a charge of industrial diamond price-fixing in 1991-2. The original charges were laid against De Beers and **General Electric** in 1994, and General Electric was cleared the same year. De Beers had refused to recognize US jurisdiction in the case, and as a result has been unable to operate in the United States. By appearing in court and accepting a \$10 million fine (against net earnings in 2003 of \$484 million), De Beers has now cleared the way for operations in the US, and for a possible entry into the lucrative retail trade with its new line of brand-name goods.

Meanwhile, in Britain, a UK government investigation cleared De Beers of wrongdoing in allegations contained in two UN Expert Panel reports concerning the Democratic Republic of the Congo and the illegal exploitation of natural resources. De Beers and several other prominent companies had been charged with breaking OECD Guidelines for multinational corporations, although in the case of De Beers, specifics will never made public. After a lengthy investigation, the British government stated in April that "in the circumstances and on the basis of the information provided, [the government] concludes that the allegations made by the UN Expert Panel against De Beers are unsubstantiated." While "unsubstantiated" is less than the full exoneration sought by the company, De Beers' Managing Director **Gary Ralfe** said that the company was "delighted" with the outcome.

A lengthy editorial comment by **Chaim Even-Zohar** in the September 9 *Diamond Intelligence Briefs* (DIB), however, suggests that De Beers may have more work to do with regard to due diligence in the DRC. De Beers has recently signed a confidentiality agreement with **Oryx Natural Resources**, the company which caused De Beers such grief in the first place because of its controversial ownership and a spate of lawsuits, with, among others, the **BBC** and *The Independent*. The agreement is only a precursor to further discussions, but DIB, as well as the NGO, **Rights & Accountability in Development** (RAID) say that any agreement between the two will be a major reputational due diligence test of De Beers' own **Diamond Best Practice Principles**.

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#### THATCHER ARREST THICKENS MERCENARY PLOT

"Diamonds, not Oil" Say
Detainees

The arrest in South Africa in August of Mark Thatcher, son of the former British Prime Minister, added more rumours and complexity to a tale of mercenaries gone wrong. In March, government of Zimbabwe detained 70 men and their Boeing 727 at Harare airport, where it had landed for refuelling and to take on a shipment of arms. The group's leader, Simon Mann – a long-time mercenary and gunrunner - explained that they were on their way to take up a job guarding diamond mines in the DRC. The story was plausible, because companies in the DRC have been hiring mercenaries to clear illicit diggers from their leases.

In August, however, Mann was convicted in Zimbabwe of weapons offences in connection with an alleged plot to overthrow the autocratic government of oil-rich Equatorial Guinea. An additional group of 15 men has been held in that country since March in connection with the same plot. Thatcher was arrested on suspicion of being part of the plan, a charge he has denied. Rumours about the shadowy financiers behind the alleged plot abound, focussing mainly on a plan to gain access to Africa's third largest oil reserves. One story, reported in the Johannesburg Star, suggests that the entire operation was a sting, in which the Zimbabwe Defence Industries (ZDI) - well known as a supplier of weapons for shady international purposes – brokered the arms sale and then had the mercenaries arrested in order to curry favour with Equatorial Guinea. Zimbabwe, in the throes of a growing economic crisis, is desperately short of oil. Other stories suggest that the hapless mercenaries had been infiltrated well in advance of their arrival in Zimbabwe by British and South African intelligence, and that the plot never had a chance.

#### **BOOKS**

Chaim Even-Zohar, *Diamond Industry Strategies to Combat Money Laundering and the Financing of Terrorism*, ABN-AMRO Bank, Antwerp, 2004, 191 pages.

This timely and immensely detailed book, commissioned by the diamond industry's biggest banker, ABN-AMRO, stakes out some of the claims and counterclaims on the industry as it comes to grip with the wave of anti-money laundering legislation that has followed 9/11. Even-Zohar, who brings 30 years of experience as a diamond trader, journalist, author and consultant to this exercise, says that "one thing is absolutely certain: within the next few years the entire diamond pipeline – from mining to the consumer of diamond jewellery – will be subject to industry-specific measures - basically "preventive measures" aimed at the avoidance of money laundering and the financing of terrorism."

The author's principal argument is not that there is no problem in the diamond industry, but that governments are going at the problems in an uncoordinated and heavy-handed manner. He likens the approach to putting up a ten storey building and concentrating all the efforts on the top three floors, with little regard for the foundation and the other parts of the building.

The book, in fact, spells out more clearly than any publication on diamonds ever has, why better controls are so essential. It describes in detail how money laundering occurs, through loan-back deals, overstatement of revenues, over-invoicing, under-invoicing, transfer pricing and something called a "reverse flip". And the author says that the cash-based aspects of the industry, its "extensive (and well reported) use of informal money and merchandise transfer systems, exacerbated by perceptions of endemic fiscal evasions, makes the diamond industry far more vulnerable – in the eyes of policy makers – than any of the other alternatives open to terrorists." He might have added "in the eyes of terrorists" as well. Although the author is mildly critical of sensationalist reports by NGOs and "best-selling book authors" on this point, he says that he personally encountered diamond diggers in Sierra Leone who confirmed having sold diamonds to agents representing al Qaeda.

The book takes particular aim at the OECD guidelines on multinational corporations, not least because these were used in the vaguest of ways by a UN panel to pillory companies doing business in the DRC. Unfortunately, the shot at the OECD misses the target. The author says, correctly, that OECD guidelines are just that, guidelines, implying that they do not have to be taken seriously. He goes further to say that they are "NGO-inspired", when in fact they are the product of long, intensive intergovernmental debate. If NGOs had any influence over them at all, they would certainly not be voluntary. And if they had been made mandatory when they were promulgated years ago, the need for a Patriot Act, the Financial Action Task Force and a dozen other draconian measures now reversing their way down the diamond pipeline, might not have been necessary.

The book explains, in ways that few other books have, why diamonds are smuggled from Sierra Leone, the DRC, Angola and other countries. The basic reason, of course, is money, but a lot of the money problem has to do with how little the diggers actually receive for their back-breaking work, and how rip-offs occur all the way downstream as the diamonds make their way towards polishing firms. The main problem in Sierra Leone, the book says, "has nothing to do with diamonds: it is the fundamental problem of restoring good governance, discipline and law and order." Unfortunately, however, efforts to do precisely this are given little credit where Sierra Leone's "surging official exports" are concerned. This is put down to political expediency by exporters rather than better governance.

The book points out a number of areas that require attention in the diamond business. Better and more credible data is one of them. The author recalls a sudden dip four years ago in the per carat value of diamonds imported into the United States from Russia – from \$580/ct to a dollar a carat. This kind of "anomaly" is now showing up in preliminary Kimberley Process data, suggesting "transactions which do not make economic sense", and which should be acted upon. Even-Zohar wants the industry to take action on this sort of thing itself, but in page after page he demonstrates that despite repeated warnings, it has not, or cannot. There is perhaps one more thing to say, not so much about the book, but about its subject: diamonds and terrorism. In a short space of time, it has become the fully received wisdom that "terrorism" is something perpetrated against the West, almost exclusively by Muslim fundamentalists, and that this is what must be stopped. Certainly this aspect of terrorism must be stopped, but the murder, dismemberment and terrorizing of innocent civilians in Africa is no less real, is no less worthy of attention, and should not be an afterthought as this debate moves forward.

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# THE REPUBLIC OF CONGO SUSPENDED Huge Jump in DRC Exports

On July 9, 2004 the chair of the Kimberley Process (KP) published a new list of participants, now totaling 42 countries, from which the Republic of Congo (Brazzaville) was removed. The Republic of Congo had trouble justifying the large quantity of rough diamonds it was exporting, which greatly exceeded its known production capacity, according to the members of the KP review mission who were in Brazzaville from May 31 to June 4, 2004. The Republic of Congo (ROC) is also prohibited from importing or exporting diamonds to or from countries that are members of the KP.

In fact, no tangible proof was provided to explain the export of five million carats in 2003, from a country whose estimated production capacity is only 55,000 carats per year. The government of the ROC has signed a contract with an Israeli firm for the development of kimberlite mining, but work has not yet begun. While the government claimed that all the production was local, the KP review mission was unable to find any mining activity in the Likouala region, said by Congolese authorities to be rich in diamonds and the main source of production in the country. In addition to interviews with government officials and diamonds industry representatives, the review mission spent several hours in a chartered aircraft, attempting to verify the government's claims.

The removal of the Republic of Congo from the Kimberley Process had an immediate impact on diamond trading in the region. Notably, its neighbour, the Democratic Republic of Congo, announced the opening of new diamond trading offices in three regions that produce diamonds. More importantly, DRC recorded an increase of 30 per cent in diamond exports between July 10 and 30, 2004. The DRC and diamond experts have long claimed that diamonds exported from Brazzaville were mostly smuggled in from the DRC.

## DRC: Peace Process Remains Fragile

The Democratic Republic of the Congo (DRC) is once again facing political and security volatility, much of it related to the control of natural resources. In July fighting broke out between the Congolese People's Armed Forces and the Ituri Nationalist Front in the north-east of the country, over the control of the gold mine of Djalasiga, 100 km from Bunia. The fighting lasted more than a week and killed over 50 combatants, ending only when the Armed Forces, lead by

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Commandant Jérôme Kakwavu, gained control over the mine.

The United Nations Mission in the DRC (MONUC) has deployed 4,500 armed personnel in the Ituri region and it reports that militia groups are recruiting new fighters, underlining the fierce battles that continue over natural resources. MONUC, which until recently had 10,800 peacekeepers, has recently had its sanctioned strength increased to 24,000.

Meanwhile, The leader of RCD-Goma, one of the former rebel factions, has suspended his participation as one of four vice presidents in the transitional government because of disputes over the current peace agreement and a massacre in August of 160 Congolese Tutsis in Burundi. Azarias Ruberwa was caught between his support for the transitional government and the need to back his own supporters. With charges and countercharges escalating between the DRC, Burundi and Rwanda, some observers fear that war may break out again. "This is a stark reminder that events could spiral into large-scale war again at nearly any time," says a UN official in Goma.

#### SPECIAL PAC REPORT LIBERIA: DIAMONDS WITHOUT MAPS

Diamonds represent a very small part of Liberia's potential post-war economy, but they retain their enormous potential for national and regional destabilization. The UN Security Council should therefore extend its embargo on Liberian diamond sales until the country is fully able to implement a Kimberley Process certification system. That was the key message in a special report published by Partnership Africa Canada (PAC) early in June, shortly before the Security Council met to debate the issue. The report, *Diamonds Without Maps: Liberia, the UN, Sanctions and the Kimberley Process*, was written by Lansana Gberie following a three week trip to the region.

Shortly after the report's publication, Gyude Bryant, Chairman of Liberia's transitional government, called for a lifting of the ban on timber and diamonds, promising to observe a voluntary moratorium on diamond exports until Liberia could be certified as Kimberley-ready. The PAC report noted, however, that the cost of implementing a Kimberley-compliant system would probably outweigh the revenue derived from taxes on

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diamond exports, and that Liberia would need external assistance to implement such a scheme properly. The report was also critical of the February 2004 UN/World Bank *Joint Needs Assessment* study which raised almost \$500 million for Liberian recovery, but mentioned diamonds – "one of the most prominent engines of West Africa's disastrous wars, precisely once." No money was allocated in the recovery plan for the diamond sector.

Meeting on June 14, the UN Security Council decided to maintain its diamond and timber sanctions on Liberia because of the "fragility" of the peace process. The sanctions were not meant to punish Liberia, "but to ensure that the peace process was irreversible," according to Security Council President Lauro Baja. *Diamonds Without Maps* is available at www.pacweb.org.

#### MEDIAWATCH

In June, the American Film Institute announced its list of the "100 best movie songs". "Diamonds Are a Girl's Best Friend" from the 1953 musical Gentlemen Prefer Blondes, came in at number 12. It was beaten out by "Over the Rainbow", "As Time Goes By" and "Moon River", but it did better than other songs with rocks in the title. "Jailhouse Rock" came in at 21, "Rock Around the Clock" was #50, and "Old Time Rock and Roll", used in the 1983 film Risky Business was #100... In July, the world's media reported that a young miner in Guinea had found a near-flawless 180 carat diamond. The 20-year-old miner, Mohamed Kalo, handed the diamond, which is four inches long and 1.2 inches wide, over to the government, reportedly in return for half of its undisclosed value. If he had sold it on the open market he would have paid only a three per cent export tax... In August, Angola's state-owned SODIAM, which now markets all Angolan diamonds, opened a buying office in Luanda to purchase diamonds from artisanal miners, or "garimpeiros". Initial purchases were expected to reach \$10 million a month, and a SODIAM official said that the figure would double within three months, after additional buying offices are opened in the provinces. The move is an attempt to dissuade diggers from selling their diamonds to smugglers...At the end of August, Rapaport News, quoting the head of the Russian Finance Ministry's administrative department, Sergey Vyazalov, reported that Russia would declassify statistical information about diamonds by October. Russia is the only Kimberley Process participant not supplying diamond trade and production data, an anomaly that could prove embarrassing if it continues when Russia takes the Chair of the Kimberley Process in 2005... In September, Amnesty International informed the media that it had applied to the **Nigerian Federal** High Court to submit an amicus curiae brief demonstrating that the decision by the Nigerian government to grant refugee status to Charles Taylor violates Nigeria's obligations under international law.