

## The Money Trail

Editorial Comment

Official diamond exports from Sierra Leone for 2005 have reached more than \$140 million, a significant increase over 2004's \$126 million. This follows a pattern set since the end of the war in 2002: from almost nothing in 2001, diamond exports have risen steadily, and are projected to rise even further by the end of 2006. Even this, some knowledgeable observers say, is significantly below the country's potential. After an extensive investigation of the artisanal sector – which still accounts for close to 90% of Sierra Leone's official diamond export – the Peace Diamond Alliance (PDA) estimates the value of current diamond production at \$400 million a year. Sierra Leone government officials think this is an exaggeration, and have questioned PDA's methodology. They call it a 'guesstimate'. They may have a point, but even they admit that there is still rampant illegal mining and smuggling [see interview below with Mineral Resources Minister Mohamed Swaray-Deen.]

That has been the historical problem of the industry. Largely of an alluvial nature, its very high unit value, the ease with which it can be mined — without need for sophisticated processing and transport facilities — its immense attraction to smugglers and other criminal predators, the diamond industry in Sierra Leone is extraordinarily difficult to manage and control. Indeed it was these very factors that made the country so vulnerable to instability. But government officials are right to claim that they have made progress in expanding the licit sector. By end of the war, there were fewer than 100 mining licenses; today the number is close to 2,400. And the steady increase in official exports clearly indicates at the very least an improvement in management and control. But the problem is not just illegal mining and smuggling. There is the issue of pricing. The pre-export trade in diamonds – that is, marketing within Sierra Leone – is notoriously confusing and opaque.

Locally-based dealers buy diamonds from artisanal miners, who are ill-informed about world market prices. The dealers then sell to exporters – or, in some cases, they smuggle the gems themselves. Some foreign exporters grumble that Sierra Leone's diamonds are uniformly expensive, which may be true. But some of the biggest exporters

Continued on page 8 →



Children going to try their luck at digging.

### Esther Massah Kamara

This 2006 edition of the *Sierra Leone Annual Review* is dedicated with deep affection to the memory of Esther Massah Kamara, who managed the Campaign for Just Mining in Sierra Leone between 2003 and 2005. Esther's commitment, hard work and her dedication to positive change will be greatly missed by her many friends and colleagues.

## An Interview with the Mineral Resources Minister

### Swaray-Deen Discusses Smuggling, Management and Nationalization

*Alhaji Mohamed Swaray-Deen, Sierra Leone's Minister of Mineral Resources, is one of the longest serving cabinet ministers in President Tejan Kabbah's government. He has been head of this important ministry since 1998. Swaray-Deen is a mining engineer, and has worked in Sierra Leone's diamond sector as a professional since he left university in 1965. He was a senior official of the now-defunct National Diamond Mining Company (NDMC), a failed government venture, and his knowledge of how that venture failed, he says in this interview, informs some of the policies that he has since pursued as Minister.*

**ANNUAL REVIEW:** What do you think are the most serious lingering problems in Sierra Leone's diamond industry?

**Swaray-Deen:** Without doubt, illegal mining and smuggling, but especially smuggling. We have put in place a number of strategies to combat illegal mining, and they are working. We have the Mines Monitoring Officers (MMOs), who are a very important arm of the ministry. They, and the Mines Wardens, represent the legal strategy of combating illicit activities in the mining sector. Anyone they catch illegally possessing diamonds goes straight to jail for three years if found guilty. It is five years if you are caught in an actual attempt to smuggle diamonds. There is no option of fines or bail. But we have a non-legal approach as well. We have over the past three years co-opted chiefs and other local authorities in the attempt to combat illegal mining. It is a less visible, less tangible strategy, but it is no less important for that. We have instituted the Diamond Area Development Fund (DACDF) through which a mining chiefdom gets a small percentage of export Community tax on diamonds [More on this below]. We have since

Continued on page 2 →

disbursed millions of leones to mining communities, chiefs and other local authorities, who administer these funds once they are disbursed to the chiefdoms. It means that now they have an interest, a very personal interest, in combating illegal mining activities and smuggling. The more diamonds that go through the legal system the more money gets into DACDF funds. So there is a carrot and stick approach.

Then of course there is the Kimberley Process, which we are implementing rigorously. It has been a great boost.

**ANNUAL REVIEW:** *How do you respond to critics – and there are many – who say that the Ministry’s attempts have been feeble and ineffective?*

**Swaray-Deen:** I’ll ask them to look at the records, at actual, tangible outcomes. Our first objective is to maximize revenue from diamonds. Revenue has been increasing significantly over the past three years. We are talking of a situation where there were virtually no legal exports before, and we are now officially exporting well over \$100 million dollars every year. And there has been an increase every year since three years ago. We have officials in every mining district in the country, and every year there are tens of mining licenses issued. Surely this should tell any objective observer that illegal activities are on the decrease.

**ANNUAL REVIEW:** *The increase in legal exports may also mean that diamonds are being smuggled into Sierra Leone from Liberia or Guinea or Côte d’Ivoire ...*

**Swaray-Deen:** You hear these rumours but where is the evidence? There is no doubt that mining activities in Sierra Leone have dramatically increased since the war ended [in 2002], and no one can dispute that government’s capacity to administer and police the mining sector has also increased. There have been significant new diamond finds. Look at Kamakwie, for example. Let me see who can dispute this.

**ANNUAL REVIEW:** *Wasn’t Kamakwie a fluke?*

**Swaray-Deen:** No. We have issued 50 mining licenses there, and there have been important finds. Mining activities are still going on there. These activities always decrease during the rainy season. It is normal.

**ANNUAL REVIEW:** *There are those who think that government’s revenue from diamonds is too small compared to what is taken out of the country, mostly by foreigners. The export tax, for example, is a low three per cent. This means that while over \$120 million worth of diamonds were taken out of Sierra Leone in 2004, government got only about \$3 million from this huge sum. Some people think that nationalizing the industry would greatly boost government’s revenue.*

**Swaray-Deen:** It is easy to lose perspective here when you quote these figures. In the first place, government revenue from the diamonds is not limited to export tax. We get money from licenses issued for mining, dealing and exporting, and the sums are not insignificant. There is also a corporate tax on the bigger mining companies like Koidu Holdings Limited (KHL).

You suggest nationalization. This is incredible! What do you nationalize? KHL? The ventures of small artisanal miners? Nationalization would be a recipe for chaos, if indeed it is practicable. We simply don’t have the capacity, or the funds, to do it. We can’t, as a government, borrow money and burrow into such an uncertain venture. What sense would that make?

We made that mistake with the Sierra Leone Selection Trust (SLST) when we nationalized it and called it the National Diamond Mining Company (NDMC). We took 51% of the shares of the company, and were then forced to pay 70% tax to the government. But the government still wanted a share from the company’s finds — half of the remaining 30%. The government did not have money to pay for its shares, so they were paying from dividends they got from NDMC each year. It was absurd. NDMC was forced to pay dividends each year, and so there were no reserves, no savings, no investment by the company. I was an official of the NDMC. We were not able to replace old machines; there was no money to invest in equipment. Everything collapsed in short order.

That is the story of one failed attempt at nationalization. It doesn’t work; we should not even talk about it.

The current policies that we are pursuing are simply the only option we have, and they are working. The key is to minimize illegal mining activities and smuggling. It is important to attract bigger mining operations. Look at Koidu Holdings. KHL has given 20% of its shares free to Sierra Leone, 10% for the government and 10% for Kono District, the area of their operations. We are working on a way to get government’s share into NASSIT [National Social Security Insurance Trust], and we want a Kono citizen to be on KHL’s board, as well as a GoSL financial official who’ll have access to the company’s financial records. He’ll be able to know what the government’s, and Kono’s, shares amount to each year. This is far preferable to outright nationalization.

**ANNUAL REVIEW:** *You spoke about Koidu Holdings, KHL. It has generated quite a bit of controversy since it started operations here, hasn’t it? Some people say its environmental practices are irresponsible, and that the company is not socially responsible.*

**Swaray-Deen:** Let’s try and understand the issues here. KHL is using new, very complex mining techniques. It is deep mining, and this involves blasting. That’s one issue – we can’t go around it except if we say there should be no kimberlite mining, which would be foolish. The other one is that the company is operat-

## TABLE OF CONTENTS

The Money Trail .....	1
An Interview with the Mineral Resources Minister.....	1
The Miners: Less than a Dollar a Day.....	3
All That Glisters: The Gold and Diamond Department (GDD).....	5
Governance: Problems Remain.....	6
Government Revenue from Diamonds .....	7
Cadastre System Defined.....	9
The Exporters.....	9
Sierra Leone Diamond Export Data.....	9
KHL & SLDC: Different Peas in the Same Pod .....	10
Giving Back to Mining Communities.....	11

ing in an area once held by NDMC, which actually discovered the kimberlite but was too broke to exploit it. NDMC, however, long demarcated the kimberlite sites, preventing people from building houses in and around them. With the collapse of NDMC, however, people began to build residences there. They were not supposed to; it was a lease area, and it was illegal to build housing there. But nobody stopped them. KHL inherited this problem. And so you have those so-called homeowners, and NGOs supporting them, raising hell about environmental issues and about issues of social responsibility once KHL started operations in the area, an area legally leased to them by the government and local authorities. Now that issue has been largely resolved. The company is building new housing for them, away from the mining sites, and the Kono authorities themselves are involved in the construction effort.

**ANNUAL REVIEW:** *The other company that has raised questions is the Sierra Leone Diamond Company, SLDC. What exactly is their situation?*

**Swaray-Deen:** SLDC has taken about a quarter of Sierra Leone for airborne exploration. This is obviously in the interest of government. We have not done this kind of comprehensive exploration before; it is very expensive. They are using aircraft, and they are extracting the magnetic property of rocks, and investigating anomalies that could lead to mineral finds.

This is a sophisticated operation, and the extent won't be obvious to many people. It is also a long-term process. We don't expect them to be making monthly reports and that kind of thing. They'll produce a comprehensive report in the final analysis, and this will be very useful for us. In addition to this, they are taking licenses to cover smaller areas... Now people say that SLDC has exploration licenses but they are actually mining. This is ridiculous;



unlikely. We are not talking about a small scale artisanal operation here. We are talking about a big mining corporation that is spending millions of dollars in the country. How can such a company mine furtively? This is not serious. There is simply no evidence for that.

**ANNUAL REVIEW:** *So what's the future of the diamond industry in Sierra Leone?*

**Swaray-Deen:** We're optimistic. For the past ten or twenty years the rumour has been that diamond deposits in Sierra Leone were almost depleted, but look at the production figures today. There have been important new discoveries. We have Kamakwie. The area is part of the SLDC exploration lease area, and they have looked at it. We expect them to give us, at some point, a report regarding its potential.

The work on the cadastre system [see below], once completed, will also help. Donors like DFID [the British Department for International Development] and the World Bank have been very helpful in this respect. We are particularly grateful to DFID for the huge investment they have made over the past three years or so in the diamond sector, and we look forward to continuing cooperation with them.

## The Miners: Less than a Dollar a Day?

In 2005, Partnership Africa Canada and Global Witness jointly published a study of the sociology of artisanal mining entitled *Rich Man, Poor – Development Diamonds and Poverty Diamonds: The Potential for Change in the Alluvial Diamond Fields of Africa*. The study, investigating conditions of artisanal mining in five African countries, was one of the most extensive of its kind, and it drew grim conclusions. It noted that while the artisanal sector produces hundreds of millions of dollars each year, enriching a few people, the vast majority of miners live below the poverty line, often subsisting on less than one dollar a day. The study describes artisanal mining – where the miners are concerned – as a dismal form of gambling: a 'casino' system where the miners earn less than subsistence wages, sharing their 'winnings' with their 'supporters'. Many end up with very little, if anything at all, however, perpetuating a system of enormous exploitation.

No one disputed these well-researched findings at the time. Less than a year later, however, the Sierra Leone-based Peace Diamond Alliance (PDA), a USAID-funded NGO which had earlier, in a widely circulated report, described the conditions of Sierra Leone's artisanal miners as 'alarming' and 'worsening' compared to 'those dozen or so companies that enjoy most of the fruits of the diamond resource',<sup>1</sup> issued a more nuanced picture of artisanal mining. In *Mining the 'Chaos' in Sierra Leone's Diamond Fields* (June 2005), PDA now found conditions among artisanal miners 'less desperate, more collegial, and less internally discriminatory than is often portrayed.' PDA noted that the decision to engage in the artisanal sector in Sierra Leone as a labourer is not 'an impulsive act, based on irrational assessment of risk, as is often portrayed. Rather than resembling a visit to the casino, engaging in mining is the result of the rational balancing among very limited alternatives.'

A lot, of course, can happen within a year or two, and Sierra Leone's diamond sector is noto-

Continued on page 4 →





Diamond mining pits near Koidu

riously volatile. Still, the PDA report seemed to protest too much. The fact that many artisanal miners prefer the tributor system – by which they are provided simple tools and subsistence by a ‘supporter’ so that they can partake of the ‘winnings’ they hope to make – may not be irrational but it is still gambling. Few actually find anything that can make any difference in their condition, and most remain below the poverty line. But the report, a serious investigative study with wide-ranging policy implications, is a good wake-up call to those who would reduce every social problem to a stock formula.

Sierra Leone is a very poor country. The GoSL’s *Poverty Reduction Strategy Paper* of February 2005 notes that 82% of the country’s population lives in absolute poverty. It also notes that ‘with a Gini Index of 66, Sierra Leone has one the most skewed income distributions in the world.’ The paper implicates the mining sector, bad governance, corruption, and the civil war of 1991-2002 in perpetuating this problem. While poverty is endemic in Sierra Leone, the GoSL paper still found the poverty in diamond mining areas particularly striking. Kono District, for example, which has produced over the past three decades billions of dollars worth of diamonds and is home to the largest concentration of artisanal miners, has a far higher level of poverty than Pujehun District, a largely agricultural area. Rural Kono has a poverty level of 79.6 % compared to rural Pujehun’s 59.6 %; and urban Kono has 56.3 % of ‘total poor’ compared to Freetown’s 17.1 %.

The Sierra Leone government officially puts the number of workers in the diamond industry at 100,000, most of these in the artisanal sector. Privately, officials say that the actual figure may be between 150,000 and 200,000, reflecting the still-robust illegal sector. In spite of the importance of the sector – in terms of both

its economic and security implications – the government has never conducted research into miners’ livelihoods, a necessary first step towards designing effective policies for poverty reduction.

*Annual Review* interviews in Kono in August 2005 reveal that a miner in the artisanal tributor-supporter system gets about 2,000 leones (about 85¢) a day for sustenance (in Tongo Fields, each gets 1,500 leones.) A miner employed on contract – that is, working for one of the smaller scale companies, with no stake in the finds – gets about 6,000 leones (\$2.50). This means that miners in the tributor-supporter system in Kono (not to mention Tongo Fields) is, according to the Government’s Poverty Reduction Strategy paper, ‘food poor’ – unable to ‘provide the level of theoretical expenditure to attain the minimum nutritional requirement’; in other words, dead poor.

The question is: why do miners stay in such harsh working conditions? No doubt this reflects the lack of economic alternatives, as the PDA study notes. Koidu Town, capital of Kono District, has been growing by 150,000 a year since 2002, according to UN officials. The town was completely destroyed during the war, and its (then) 200,000 residents mostly scattered. Since the war ended, there has been a boom in diamond mining, and many of the new migrants are petty traders or miners, most of them young.

A report prepared by Sierra Leone’s Ministry of Youth and Sports with UNDP funding in May 2004, ‘Mining and Marginality: Kono and Tongo Fields,’ notes that of 550 miners interviewed in Kono, 465 claimed they started mining after the war; 75% were between the ages of 21 and 30, and all cited poverty and ‘survival’ as reasons they went into mining. The report notes that for 70% of 852 miners interviewed, ‘mining remains the most attractive option for the bulk of the young men who cite poverty (39%), survival (37.2%) and financial (23.7%) as the primary cause’ for moving into Kono. The report notes that an overwhelming 88% of 175 miners interviewed in Kono were illiterate – in contrast to the PDA study, which found that 46% of the artisanal miners they interviewed claimed to have gone to secondary school.

### One Problem, Two Approaches

The PDA study estimates that \$400 million worth of diamonds are produced in Sierra Leone each year, but very little of that accrues to the artisanal miner. However rational their choice in becoming artisanal miners, the system in which these labourers toil is inherently exploitative, suggesting that some people – perhaps many people – are being duped and cheated. Since the war ended, two approaches have been initiated to minimize the problem.

The first was launched by Sierra Leonean civil society groups, led by the Network Movement for Justice and Development (NMJD), involving high-profile media and other public awareness campaigns around the issue of ‘just mining.’ It is called the Campaign for Just Mining (CJM). The CJM has advocated a ‘rights-based approach’ to the issue of mining, highlighting the exploitation of workers and environmental infractions, and sometimes working closely with government and international agencies on legislation and measures aimed at making the mining industry more transparent and socially responsible.

The other approach, less apparent but perhaps more systematic, has been the one adopted by the PDA, an initiative of USAID which believes

that 'Stemming the flow of illegally exported diamonds will ensure that the profits from the diamonds are not used for illegal or terrorist purposes.'<sup>12</sup> It seeks to convert Sierra Leone's diamond resources 'from a source of war and desperation to a foundation for peace and prosperity.' The PDA's approach has involved the establishment of cooperative schemes, identifying suitable mining areas, training miners in diamond valuation, instituting a credit scheme through which a mining group could have access to as much as \$10,000 in credit (to break the capricious chains of reliance of 'supporters'). The PDA also aims for diamond buying at attractive prices. The PDA started a pilot scheme in Kono in 2002 and has now started one in Tongo Fields, two areas that represent nearly 70% of all mining licenses in the country

Only time will tell whether these two approaches will lead to much-needed fundamental changes in the country's all-important mining sector. Everyone agrees, however, that the work needs to be intensified and sustained, and that it demands much more than reports and press releases.



Poster of United Mineworkers Union, Sierra Leone.

## All that Glisters: The Gold and Diamond Department (GDD)

Headed by Lawrence Ndola Myers, a former De Beers employee, the GDD has a staff of eleven (all Sierra Leone nationals), backed up by an independent international firm of valuers who fly in several times a year to audit and advise GDD staff. The GDD, housed in the Bank of Sierra Leone complex in central Freetown, values and levies export taxes on all diamonds that are officially exported from Sierra Leone.

When it was set up in the 1980s, the GDD had a staff of 100. This number was reduced to 57 in 1992, and still further down to 17 in 2003. The current staff strength of 11 was reached after the intervention of the newly-established National Revenue Authority, NRA. The GDD has six valuers, one secretary, one financial controller and his assistant, and three auxiliary staff. Expert advice from the NRA, GDD's Myers says, has been very helpful to the GDD. Export proceeds have gone up and the annual salaries of local staff have increased from an average of Le2.5 million per annum to Le12 million (US\$5,100). This increase in salary has led to greater efficiency and has probably reduced considerably the temptation for workers to act unethically.

The GDD's role has changed over the years. When it was set up in 1985, the then GGDO was supposed to value and purchase all diamonds mined in Sierra Leone. This was to serve as collateral for government in dealing with external loan management. In practice, however, because the government did not have liquid cash, it only intermittently bought diamonds, and this function was given up in the 1990s after the National Provisional Ruling Council (NPRC) looted the GGDO's reserves.

The GDD gets 0.75% of the 3% export tax on diamonds, amounting to approximately \$1 million in 2004. This increased in 2005, reflecting the increase in exports. The GDD pays its staff from this revenue. Whether this percentage will be reviewed if, say, export figures are doubled, is open to question. It certainly became an issue in the case of the external valuers.

The valuation firm Diamond Counsellor International, which has held the position for several years, was being paid 0.4% of the export value. At the time, export was minimal, and the pay for the consultant, who flew in three times a year to assist the GDD, appeared reasonable. Now that exports have significantly increased, the pay looks much more generous, and in 2005 the government asked for a review. DFID recommended that the government put the contract out to tender, and an advertisement for 'independent diamond training & valuation services' duly appeared in an October 2005 edition of *The Economist*. The ad called for a 'second, independent valuation of diamond parcels exported through the GDD,' to 'ascertain the international market value of diamonds produced and exported from Sierra Leone whilst supporting the capacity-building within the GDD.' The selection of a firm was postponed at the end of November because of new recommendations from the Law Reform Commission which covers a hoped-for domestic polished diamond manufacturing sector. The new valuator will be expected to provide additional services to the domestic as well as the export market.

At the GGD there are plans to introduce new security technologies, including CCTV. The CCTV cameras will maintain non-stop surveillance around the GGD work site, especially focusing on diamond sorting tables. The GDD has received good reviews over the past two years, and is probably one of a few institutions in Sierra Leone that maintains standards of transparency and efficiency that are hard to assail.

## Governance: Problems Remain

The diamond mining industry falls under the direct remit of the Ministry of Mineral Resources, which is housed at the Youyi Building in Freetown. The Ministry, which has been the focus of extraordinary attention over the past three years because of its strategic importance, has also been a subject of sustained criticism from many quarters. A review of the diamond industry by a major donor in 2005 found that although there has undoubtedly been progress made towards ensuring that the potential benefits from diamond deposits are fully realized by the government and people of Sierra Leone, the capacity of the Ministry of Mineral Resources has only marginally improved, and remains weak at national and particularly at local levels. The donor report also said that the ministry has a narrow focus, lacks management, monitoring and training capacity, and there is no clear strategy for confronting the strong vested interests of politicians and chiefs.

Senior ministry officials bridle at these charges. We have come a long way, they claim, with very limited resources and support. In 2001, the Ministry, virtually dormant during the war years, did not have a single official vehicle, morale among its depleted staff was low to non-existent, and there was no strategy to confront the mining industry, then largely reduced to an informal sector, as government slowly started to re-establish itself at the conclusion of the disarmament process. Now the Ministry has recouped some of its staff; has, with donor assistance, promulgated new legislation such as the important Core Mineral Policy (2004); it has revamped the Gold and Diamond Department (GDD); and morale among its staff has improved, they argue.

Both sides are at least partly right; but the problems of properly administering the diamond industry need to be analyzed carefully if they are to be effectively confronted. The first thing to note is that the ministry was, in the 1960s and 1970s, the biggest contributor to Sierra Leone's GDP, providing the country with over 70% of its foreign exchange earnings, 20% of its GDP, and 15% of its fiscal revenue. The hope that it would quickly recover this position is one reason why a recent donor proposal to focus on six line ministries for upgrade and support included the

Ministry of Mineral Resources — even though it does not directly provide services to the country's citizens, like the Ministries of Health or Education. The fact that the Ministry is not doing as well as it used to is a source of growing anxiety among donors, who appear prematurely eager to scale down their support to the war-ravaged nation.

The Ministry, drawing its legal authority from a number of laws — including the Mines and Minerals Act of 1996, the Income Tax Act, the Foreign Exchange Control Act, the Environmental Protection Act of 2000, and the Business Exchange Control Act — issues the licenses that regulate the mining, sale, and export of diamonds. It also has monitors, wardens and superintendents, many of them extension workers, who do the actual administering of the industry on the ground. These officials draw upon a number of recent regulations, including the Mining Code of 2004 and the 2005 Policy on Artisanal and Small-scale Mining (PSSAM). Two professional departments of the ministry supervise its functions: the Mines Department, which monitors and regulates the mining and marketing of precious minerals like diamonds; and the Geological Surveys Division (GSD), which provides geological information. Both are seriously under-staffed, with the functions of some of the professional staff of the GSD being less than clear. Overall, the Ministry has 260 professional staff, and 207 temporary staff.

The Mines Department is headed by the Director Mines, A.M. Wurie, a longtime figure in the Ministry. This department issues mining, dealer and export licenses, and provides an oversight function where the diamond business is concerned. The department has an age problem: within the next five years, four of its eight top-level professionals will retire, in addition to 20 of its 102 mid-level staff. Worse still, a recent internal GoSL review noted that 16 of the senior Mines Wardens, all 84 of the Mines Wardens, and 11 Area Superintendents were not qualified for their jobs.

The department employs and supervises the Mines Monitoring Officers (MMOs) and Mines Wardens. There are currently 207 MMOs — an



Diamond mining pits, Kono region.

increase of seven over the previous year. The criteria for employment of the MMOs are three subject passes at GCE O-level, but the GoSL review noted that appointments have been 'loose and political, with preference for retired servicemen'. Once appointed, the MMOs are subjected to in-house training before their deployment. Some Ministry officials complain that most of the MMOs are illiterate, and cannot fulfill reporting requirements.

Except for a very few, most of the MMOs are not civil servants, have no job security, and at \$50 per month are paid poorly. They are also seriously handicapped by poor logistics. Take the almost ramshackle Mines Department offices in Kenema, one of the most important centres of the diamond trade, which the *Annual Review* visited in August 2005. It supervises 51 MMOs, certainly too small a number to cover such an extensive area. The problem is compounded by the fact the MMOs have to make do with eight old motor bikes. While in the field — in places like the volatile Tongo Fields — they cannot communicate with the Kenema office: there are no radios, and cell phone coverage has not yet reached Tongo. In any case, the MMOs are not provided with cell phones. MMOs operating in the Tongo Fields area have in the past been subjected to violent assault by illegal miners, many of them rebel ex-combatants. In the all-important Kono District, there are only 64 MMOs and six Mines Wardens. Both sections want the number of MMOs at least doubled.

The Precious Minerals Monitoring Team, which includes eight police officers and eight MMOs, and which — unlike the overall MMO — has powers of arrest, is regarded as largely ineffective. Its former operational head, Teddy Kargbo, who received training in South Africa in 2004, was replaced in 2005 by an officer with no such training.

The Geological Survey Department (GSD) issues prospecting licenses and monitors the activities of exploration companies across the country. A



GoSL internal review found that several senior staff at the GSD are also employed by private mining companies, and that there is no mechanism for accounting to the GSD for their work with such companies.

The Department has so far issued 65 Exclusive Prospecting Licenses, but three – all held by Tebasco International Corporation Ltd. – have expired, and the Department was uninformed about the validity of four held by Olympus Development Company Ltd. and one by Lion Corporation Ltd. The most prominent and active prospecting licenses are those held by the Sierra Leone Diamond Company (SLDC), about which more below. The Department is piloting a cadastre system in Kono – covering a limited area of 400 of an estimated 1000 plots in the district – with plans for a national system by the end of 2006. The World Bank has expressed strong interest, and has made completion of the system a condition for funding of up \$15 million towards the diamond sector.

The 2005 Kimberley Process review team recommended that in the absence of effective x-ray scanning of all passengers passing through Lungi International Airport, passengers should

be body-searched, and their carry-on luggage opened and searched, to prevent the smuggling of diamonds. Searching all passengers for small parcels could prove both unmanageable and unpleasant, but random detailed spot checks before each flight might be a useful dissuader for those tempted to bypass legal channels. Little apparent checking is in fact being done.

The problems of the ministry and its departments all point to the fact that the GoSLs commonly cited problem of a lack of capacity is legitimate. But a more serious problem may be its inability to properly utilize what little it has to start with. One key problem is a lack of internal communication and coordination between the various arms of the GoSL that deal with the diamond industry – the Ministries of Mineral Resources, Finance and Justice, the Office of National Security and the Department of Immigration, and Customs and Excise. There is no coherent fiscal policy towards mining companies among the Ministry of Mineral Resources, Customs and Excise, and Immigration. For example, without notifying the Ministry, Immigration in early 2005 increased fees for the registration of expatriate workers by

1,000% - to Le 5 million per person per annum (US\$2,130). The move was probably aimed at Lebanese traders, who bring in dozens of relatives from the Middle East each year to run shops or to do jobs that many unemployed Sierra Leoneans are well placed to do. This move, however, severely irked Koidu Holdings, which has dozens of expatriate workers from South Africa trained in specialist mining. KHL pleaded with the Ministry to intervene and the Ministry had in turn to plead with Immigration to reduce the fees.

The Ministry's pleas for tax concessions on behalf of choice mining companies, however, are a source of friction between it and Customs and Excise, as well as with the Ministry of Finance. The GoSL internal review states that cumulative revenue losses from tax concessions to a company like the titanium miner Sierra Rutile will be \$98 million over the period 2004-2016. In mitigation, however, the government will acquire up to 30% equity stake over time. Still, it would help if there was a more coherent fiscal regime governing all mining companies.

## Government Revenue from Diamonds

Government's principal revenue from diamonds comes in the form of license fees and export taxes. On average, monthly exports in 2005 were almost \$12 million, for a total of \$141.9 million in 2005.

The export levy on diamonds forms a substantial part of government's diamond-related revenue. For the first nine months of 2005, government tax revenue was approximately \$2.2 million. Government also gets revenue from licenses – mining, dealer, and export – license fees, as well as the corporation tax paid by KHL. Revenue from licenses and the three per cent export tax in 2004 was \$5.2 million, of which \$2.9 million came from licenses. There are three categories of people to whom dealer and export licenses can be issued (mining licenses are issued only to Sierra Leoneans, although foreigners sometimes obtain them through Sierra Leonean proxies). These are 'citizens', 'ECOWAS citizens' and 'foreign nationals'. Information relating to business and other credentials is not sought before licenses are issued to 'ECOWAS citizens' and 'foreign nationals', and it is often the case that dealers – even 'foreign' or 'ECOWAS citizens' – are actually mining supporters. In addition, both dealers and exporters can be

agents. This has serious implication for transparency and for government revenue generation.

Nearly 2,400 mining licenses were issued in 2005, and though not always as detailed as one would wish, monthly reports on mining activities are prepared by Mines Monitoring Officers (MMOs) across the country. These include details on the number of licenses issued, income derived from these licenses, and the activities of mining companies and 'gangs'.

Records on more established companies like KHL are more coherent. Ministry of Mineral Resources records show that KHL, which has 54 expatriate workers directly employed at its Koidu operations and another 23 expatriate sub-contractors, has been paying by far the biggest royalties to government. From the records made available to the *Annual Review*, the company paid \$75,618 in March 2005, \$90,276.34 in April, \$46,435 in May, \$131,028.47 in June (along with \$14,000 for renewal of its Tongo Fields diamond exploration licenses), \$131,227.67 in July, \$121,349 in August, and \$71,275 in October. KHL's South African manager Jan Joubert claims – in an interview with the *Annual Review* in September 2005 – that the company has operating costs of \$1.3 million a month, losing \$6 million in 2004. Joubert says the company is now breaking even, and expects to start making a profit in 2006.

are locally-based Lebanese traders, many of whom, through a network of relatives and friends, also fund artisanal mining and dealers. And profit margins on the exchange between the dealers and miners are uniformly huge. Quoting from a PDA source, an internal Government of Sierra Leone (GoSL) investigation cited the case of a dealer who bought a stone for \$30,000 from an artisanal miner and then sold it to an exporter for \$180,000. This may be 'exceptional', to quote the GoSL finding. More likely it is common practice.

Given the fact that smuggling is most often done by dealers – and exporters who may have close business ties with the dealers – the loss to the nation must be huge. The loss to the artisanal miners, the labourers who seem forever stuck in poverty, is even greater. This should be a concern, not just for government but for anyone interested in social justice, and something should be done about it.

Something, but what? The diamond industry is hopelessly unwieldy, and as Minister Swaray-Deen argues [see *interview*], any attempt to tighten control through intrusive government action could backfire. Just how limited government's control of the industry is can be seen from the actual revenue that the government itself gets from it each year. Government's revenue from diamonds comes chiefly from licenses (mining, dealer, and export), and the three per cent tax on exports. In the case of a company like Koidu Holdings Limited (KHL), there is also the corporation tax, which is not insignificant. But artisanal alluvial mining is by far the more important sector, both in terms of the volume of production, and the number of people it employs. In 2004, alluvial mining accounted for \$112.7 million of the \$126 million worth of diamonds officially exported out of Sierra Leone. In 2005, alluvial mining accounted for \$119.4 million, a six per cent increase. However, government's revenue from licenses and taxes, including the three per cent export levy, was only \$5.2 mil-

lion from the alluvial sector in 2004. The mining, dealer and export licenses made up \$2.9 million of that sum.

The fiscal constraints for government are compounded by the fact that the revenue it gets from export taxes, which constitutes about 40% of what it earns from the diamond trade, is shared between the state treasury, the Government Gold and Diamond Office (GDD), external valuers, and the communities from which alluvial diamonds are mined (in the form of the Diamond Area Development Fund). This is an important point, because too often people, including the country's major donors, confuse the total value of exports with the actual revenue that government gets.

Can the Government of Sierra Leone get more from diamonds than it does now? The question must be yes. The problem, however, is how. A 2005 IMF review of the Poverty Reduction and Growth Facility in Sierra Leone<sup>3</sup> noted that the country has a solid fiscal regime, and that the existing Mines and Minerals Act (1994, amended 1996), which sets royalties and licenses fees, and the Income Tax Act of 2000, are well-thought-out. But the country is just emerging from war, has very poor infrastructure, and is desperate to attract external investors. It has therefore had to grant special deals to individual mining companies in terms of tax concessions. KHL, for example, has on occasion been granted duty-free facilities for equipment and other mining-related goods it imports into the country, and has had waivers on residential permits for its dozens of foreign employees. The IMF review is justly critical of this approach, because there appears to be no documentary framework to support it; it is *ad hoc* and open to abuse. It also means a huge loss of revenue for the government. In a case unrelated to diamonds but relevant to the mining industry as a whole, a GoSL review estimates that revenue loss from several concessions granted to the titanium mines under Sierra Leone Rutile, will amount to \$98 million between

2004 and 2016.

Could government itself invest in the diamond industry, set up and support artisanal miners' cooperatives, and buy the diamonds they produce? This is not a far-fetched idea – the PDA has a pilot project – but it would need a significant upgrade of the GoSL's capacity. At the moment that capacity is seriously limited. Mines monitors, for example, are too few, are badly paid and ill-equipped, and there is evidence that many are incompetent. Even some of the senior staff of the Ministry of Mineral Resources is problematic, to put it no stronger. Governance limitation, in other words, is still the core problem in the country.

In some areas, however, governance has registered a marked improvement. Child labour, for example, once so ubiquitous in the diamond fields, is now largely contained. The GoSL highlighted the problem in its Core Mineral Policy of 2003. The policy aimed to improve 'employment practices, encourage participation of women in the mineral sector, and prevent the employment of children in the mines.' Nothing much was done about the issue in 2003 and 2004, however, and the Annual Review, among others, highlighted its persistence. In 2005, however, Mines Monitors and Wardens were tasked to make the issue a serious part of their job, and applicants for mining licenses are now made to sign an undertaking not to employ children. On-the-spot checks by Mines Monitors have led to the penalization of a few culprits, and the problem appears to have diminished.

This limited but important success shows that with determination, government can actually produce positive results. Pressure for it to do so should remain.



## Cadastre System Defined

Developing a cadastre system is now considered by donors in Sierra Leone to be of urgent and strategic concern. The aim is to make an accurate map of mineral deposits and mineral potential which would allow for more strategic investments. But what exactly is a *cadastre* system? In general, cadastral maps define legal repositories of land ownership, value, and location, allowing individuals and businesses to raise capital based on property values. The online Wikipedia encyclopedia defines cadastre as 'a register of the real property of a country, with details of the area, the owners and the value.' The word, it says, came into English by way of French and Italian, giving 'rise to the adjective *cadastral*, used in surveying and public administration, and referring to the division of land into units for surveying, taxation or administrative purposes.' In the case of the much-talked-about cadastre system in Sierra Leone, the concern is about creating an accurate survey of mineral (in this case mainly diamond) occurrences with a view to guiding strategic investments and making fiscal (in the form of government tax revenue) projections. The project, still in its pilot stage – and limited to a small area of Kono District – has received both DFID and World Bank support.

## The Exporters

There are nine major exporters of diamonds from Sierra Leone. They are mostly foreign nationals and mostly of Lebanese extraction. There are some eighty persons or companies serving as agents for the major exporters.

An alluvial diamond exporter's license costs US \$40,000 per year while an agent's certificate costs \$25,000. The present crop of dealers' licenses will expire in July of 2006. Hisham Mackie, by far, is the leading exporter, accounting for 51% of all official exports by July 2005. That is an increase of more than 10% over his performance in 2004. Andre Hope, the Sierra Leonean exporter who trailed Mackie in second place in 2004 with 19% of the exports, lost his licenses in 2005, and appeared to be out of business. Bajibu Kabba, a Sierra Leonean newcomer, is now the biggest indigenous exporter, but his share is less than 5%. All of these exporters deal in alluvial diamonds.

KHL, however, is steadily emerging as a major exporter. In 2004, it exported 79,000 carats of diamonds worth some \$13.8 million. In 2005, the figure rose to \$22.5 million, an impressive 62.4% increase. However, GDD officials expressed concerns to the Annual Review about recent trends in KHL exports. They observe that KHL's more recent exports have been of much lower-quality gems than in the past. KHL claims, in response, that because of complaints from Kono residents about blasting, they have been digging deeper, and therefore the diamond occurrences are of lower grade.

## Sierra Leone Diamond Export Data

2003 Export Data				2004 Export Data				2005 Export Data			
Month	Export (\$)	Carats	Price/Carat (\$)	Month	Export (\$)	Carats	Price/Carat (\$)	Month	Export (\$)	Carats	Price/Carat (\$)
Jan	4,612,174	37,853	121.84	Jan	6,732,551	55,347	121.64	Jan	9,676,953	57,349	168.74
Feb	7,087,005	40,612	174.51	Feb	9,956,715	67,192	148.18	Feb	8,829,145	42,153	209.45
March	4,827,357	29,566	163.27	March	12,186,650	61,730	197.41	March	9,857,565	47,966	205.51
April	7,363,137	45,259	162.69	April	12,219,747	72,589	168.34	April	12,950,368	63,982	202.41
May	5,526,897	41,334	133.71	May	9,824,063	49,712	197.61	May	12,440,447	54,896	226.62
June	7,673,862	56,612	135.55	June	17,371,974	89,560	193.97	June	21,573,844	77,115	279.76
July	5,417,475	37,191	145.67	July	12,925,172	59,194	218.35	July	13,180,714	54,372	242.41
August	7,527,192	49,182	153.05	August	9,689,861	50,172	193.13	August	13,543,472	62,980	221.46
Sept	6,828,932	50,068	136.39	Sept	9,897,734	51,781	191.14	Sept	7,123,957	34,101	208.91
Oct	6,789,034	44,032	154.18	Oct	9,588,852	46,014	208.38	Oct	10,607,968	51,528	205.87
Nov	5,868,077	35,121	167.08	Nov	9,215,901	51,310	179.61	Nov	11,873,960	54,248	218.88
Dec	6,465,401	39,903	162.03	Dec	7,052,411	37,152	189.82	Dec	10,281,845	68,015	151.17
<b>Total</b>	<b>75,969,753</b>	<b>506,723</b>	<b>149.92</b>	<b>Total</b>	<b>126,652,634</b>	<b>691,757</b>	<b>183.09</b>	<b>Total</b>	<b>141,940,244</b>	<b>668,655</b>	<b>212.27</b>

## KHL & SLDC: Different peas in the same pod

In terms of financial investment, Sierra Leone's diamond sector is dominated by two foreign-owned companies, the South African Koidu Holdings Limited (KHL), which has acquired all of the country's known kimberlite deposits (in Kono and Tongo Fields), and the Sierra Leone Diamond Company (SLDC), mainly a prospecting firm. Both companies have been active in the country, in various incarnations, since the 1990s, and both have attracted controversy.

KHL, the bigger, more visible company, appears now to be gaining traction. Its managers, who squirm at any mention of the company's former links with mercenaries, point to a number of recent successes. It has largely settled the problem that dogged the company's operations into 2005: clashes with Kono locals over environmental and property ownership issues. Some of the problem had to do with an Environmental Impact Assessment (EIA), produced at the company's behest in 2003. This stated that 284 households, comprising 4,537 people, would be adversely affected by KHL's blasting, and that these needed to be relocated to new housing which the company should construct. KHL dithered for over a year – partly because, it argued, it had not budgeted for the housing scheme. Its agreement with the government indicated that the land was 'unoccupied' (the area was marked out as a 'safe zone' in the mid-1960s, making it illegal for private housing to be constructed there). Residents disagreed. The land was theirs, not government's to give out to a foreign company.

The stand-off attracted vocal NGOs and rights groups. KHL responded by putting up a few cheap buildings for the 'home-owners' (who rejected them), and proceeded with its operations, involving dynamite blasts at least twice a week, with little apparent consideration for residents. The district teetered on the verge of violence. On 16 February 2005, the Affected Property Owners Association — a group representing the displaced residents — wrote to the government and KHL threatening strike action within 72 hours if 'the conditions and terms of

the EIA report' were not honoured. The group claimed that KHL had not treated them 'fairly as human beings'. A series of frantic meetings was then initiated by government officials, and in May 2005, an agreement was reached under which houses were to be constructed for the affected homeowners 'by the community people themselves, and the cost of material, labour and supervision [to] be provided by KHL.' Tentatively, that seems to have resolved the matter.

With \$26 million invested, KHL claimed that it would start breaking even by the end of 2005, an obvious relief for the financially cornered government, whose closeness to the company has been a source of anxiety to some observers.

Senior government officials are believed to be even closer to the Sierra Leone Diamond company (SLDC), the formerly Canadian (now Bermuda-based) prospecting company whose main shareholder is Romanian-born businessman Frank Timis. SLDC

has been active in Sierra Leone since 1996. Under Canadian Alan Dolan, the company was called Africa Diamond Holdings Limited (ADHL). In 2005, the *Annual Review* reported that the SLDC, in which Timis had invested \$12 million the previous year, was 'on the move,' with the initiation of a series of high resolution airborne magnetic surveys over its licenses areas, accounting for more than a third of Sierra Leone's land area. The *Annual Review*, relying on information from the SLDC, reported that the survey was 40 per cent complete by end of 2004. Now we are not so sure.

In the first place, SLDC's surveys seem largely intermittent, and there are conflicting reports about progress made. Also, there is sometimes

confusion about what exactly the company is prospecting for, or whether prospecting is all it is doing.

In November 2003, ADHL, precursor to SLDC, signed an indenture with the government for \$10,000, allowing them to prospect not only for diamonds but for bauxite and other minerals. The application envisaged environmental and other problems in areas where the company would operate, and pledged to introduce 'improved varieties of most commonly cultivated crops,' 'sustainable farming,' and programs of HIV/AIDS education. None of these programs appear to have been initiated yet in SLDC's areas of operations.

The company has a number of subsidiaries with prospecting and exploration licenses in Sierra



Koidu Holdings diamond plant near Koidu.

Leone. Among them are Fatkad Mining Company Limited, Kangaroo Mining Company Limited, and Molans Mining Company Limited. Directors and officers of SLDC also have beneficial interests in North West Diamond and Gold (Like SLDC, registered in Bermuda), and SLDC recently acquired North West's 10,000 km<sup>2</sup> exploration licenses in Sierra Leone. This tangle of corporate names and interests creates some confusion.

The *Annual Review* has seen GoSL documents that raise concerns over key aspects of SLDC's 2004 Annual Report. One notes that 'only a single paragraph' in the entire report describes 'the Airborne Magnetic Survey...which should have been the thrust of [SLDC's] operations'. The

SLDC report noted that 'follow-up exploration will use geophysics and an excavator for pitching and trenching of identified gold and diamond dyke or pipe targets.' A GoSL report says this is 'incomprehensible when you consider that the [SLDC's] license is basically reconnaissance and targeting — mainly [the] aeromagnetic survey.' The report called for 'clarification' from SLDC, to include a proper definition of 'aeromagnetic surveys.' None appears to have been officially provided, and GoSL officials were defensive when queried about this by the *Annual Review*. In an e-mail note to the *Annual Review*, however, SLDC's London-based manager, David Gadd-Claxton, noted that an aeromagnetic survey is 'an airborne magnetic survey designed to look for magnetic signatures of potential Kimberlite bodies in the earth.' Gadd-Claxton claims that this survey has now been completed 'at a not inconsiderable cost.' He added, 'We have spend in excess of \$5 million on' the program.

In June 2005, Moseray Fadika, the Sierra Leonean General Manager of SLDC's North West Diamonds and Gold Ltd., notified government of the discovery of 'minerals not specified' in the company's license, and asked for an amendment of the license to cover those minerals. The gov-

ernment subsequently approved 'exclusive prospecting licenses' (EPLs) and one exploration license covering 142 square miles in Tonkolili District (covering iron ore, rutile and bauxite, as well as diamonds), and another covering 1,316 square miles for two years in southern and eastern Sierra Leone. Total annual payment for these was put at \$178,400, but Fadika asked for a reduction (figure not stated) in view of the fact that the company would be investing \$2.5 million during the first phase of its investigations.

Residents in Kenema and Kono Districts claim that SLDC engages in small-scale mining, and there have been reports of clashes between SLDC employees and residents, as well as with MMOs. Both the government and SLDC dismiss these claims, but Gadd-Claxton told the *Annual Review* in September 2005 that SLDC plans to embark on 'large scale alluvial mining operation[s]' and that the company is now trying to generate 'near term cash flow' for this. Gadd-Claxton says that SLDC will employ 600 to 800 people in the operation.

The company claims to be spending half a million dollars a month in Sierra Leone. This expenditure is difficult to track, although the salary for its Sierra Leonean General Manager runs to six

figures (in US dollars.) A scheduled meeting between Gadd-Claxton and the *Annual Review* in London to discuss some of these issues in October 2005 was cancelled at the last minute. Gadd-Claxton did not respond to further email inquiries after that.

In January 2005, SLDC was floated on the AIM market of the London Stock Exchange with the aim of raising £100 million for its Sierra Leone operations. The announcement triggered press reports focusing on Timis' controversial past, including two admitted drug convictions, and other unsavoury allegations. A British MP was also criticized for improper links to the company, in the form of lobbying and improper payments. To paraphrase an internal review of Timis' record with respect to another of his companies, Regal Petroleum, Timis' 'prior conduct' may have 'no material adverse effect on [SLDC] and in particular on the validity of its interest' in Sierra Leone. Nevertheless, a little more transparency on the company's operations in Sierra Leone would go a long way in reassuring locals that the company really is 'on the move' in ways that will benefit the country.

## Giving Back to Mining Communities

Sierra Leone's diamond mining areas are among the poorest and least developed in the impoverished country. This is partly because the diamond mining sector seems to attract mainly fly-by-night investors with little interest in reinvesting profits into other productive economic activities in the diamond areas. Most miners and dealers are in effect 'strangers' who simply move their money back to where they came from. In view of this, NGOs and donors in 2000 pressured the government to devise a scheme whereby a percentage of what accrues from official diamond exports would be sent back to the communities where the diamonds were mined.

On 20 December 2001, the Sierra Leone government established the Diamond Areas Community Development Fund (DACDF). The government approved the allocation of 25% of revenue accruing from Diamond Export Taxes (i.e. 0.75% of total export value) to a fund for the development of diamond mining communities. As a result of this decision, the Gold and Diamond Department (GDD) was asked to deposit



this proportion of Diamond Export Taxes into an *ad hoc* account with the Sierra Leone Commercial Bank.

Matching arrangements are unclear, but by the end of 2004, 54 chiefdoms with a combined 2,313 licenses had benefited from the fund. A total of nearly \$1,923,000 has since been paid out to mining chiefdoms by the government, almost \$850,000 in 2004 alone.

*Continued on page 12* →



→ From page 11

The disbursement of funds, however, and community capacity to implement and monitor projects, has provoked controversy from various quarters. The fund targets those chiefdoms where diamond mining takes place. Chiefdoms benefit according to the number of diamond mining licenses issued and the value of legal exports overall. This, of course, raises an argument that a chiefdom with, say, 20 licenses but with high value diamonds might contribute more to export tax than a chiefdom that produces less valuable stones but has more mining licenses. Chiefdoms, however, get added rewards for 'special stones' – stones of extraordinary value.

No official rule was made about how DACDF funds were to be used by chiefdoms, but it was generally understood that they would go to projects that would enhance social and economic development in diamond mining communities. Priority was placed on the following components:

- Community infrastructure: schools, health centers, markets, roads, bridges, water supply, waste disposal, community centres (barries) or court houses;
- Community agriculture, especially post-harvest crop-processing (drying floors and storage facilities);
- Vocational skills training centres.

Initial management of the funds, mostly in the hands of chiefs who were just returning to their chiefdoms after years of displacement and dispossession during the war, was problematic. Anticipating this, the government in 2001 sought to establish a set of criteria. Proposals about how the funds were to be used, with clear project aims and objectives, were to be submitted before the funds were disbursed. Additionally, a technical team answerable to a sub-cabinet committee was proposed as an oversight body, to approve community proposals and, where necessary, to provide technical assistance to communities. This proposal was dropped after donors and NGOs complained that such a bureaucratic body would create a barrier to the 'urgent' distribution of funds – coded language suggesting that officials themselves might divert the funds.

By 2002, it was clear that a number of chiefdoms were not effectively utilizing the DACDF fund. In 2003, a coalition made up of a number of NGOs and government line ministries (the Ministry of Local Government and Community Development and the Ministry of Mineral Resources) engaged in series of activities to ensure that the DACDF would be more effectively utilized by the recipient chiefdoms.

Problems continued, however, and government suspended further disbursement of the funds at the end of 2004. The funds continue to be deposited in the Sierra Leone Commercial Bank.

## Notes

- 1 PDA, The Diamond Sector Financial Constraints, June 2003.
- 2 USAID: [http://www.usaid.gov/sl/sl\\_democracy/news/031001\\_pda\\_launch/](http://www.usaid.gov/sl/sl_democracy/news/031001_pda_launch/)
- 3 IMF, June 2005: <http://www.imf.org/external/pubs/ft/scr/2005/cr05194.pdf>

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[www.pacweb.org](http://www.pacweb.org)

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