'TRACKING THE TRENDS'

An Assessment of Diamond Mining Sector Tax Contributions to Treasury with Particular Reference to Marange Diamond Fields

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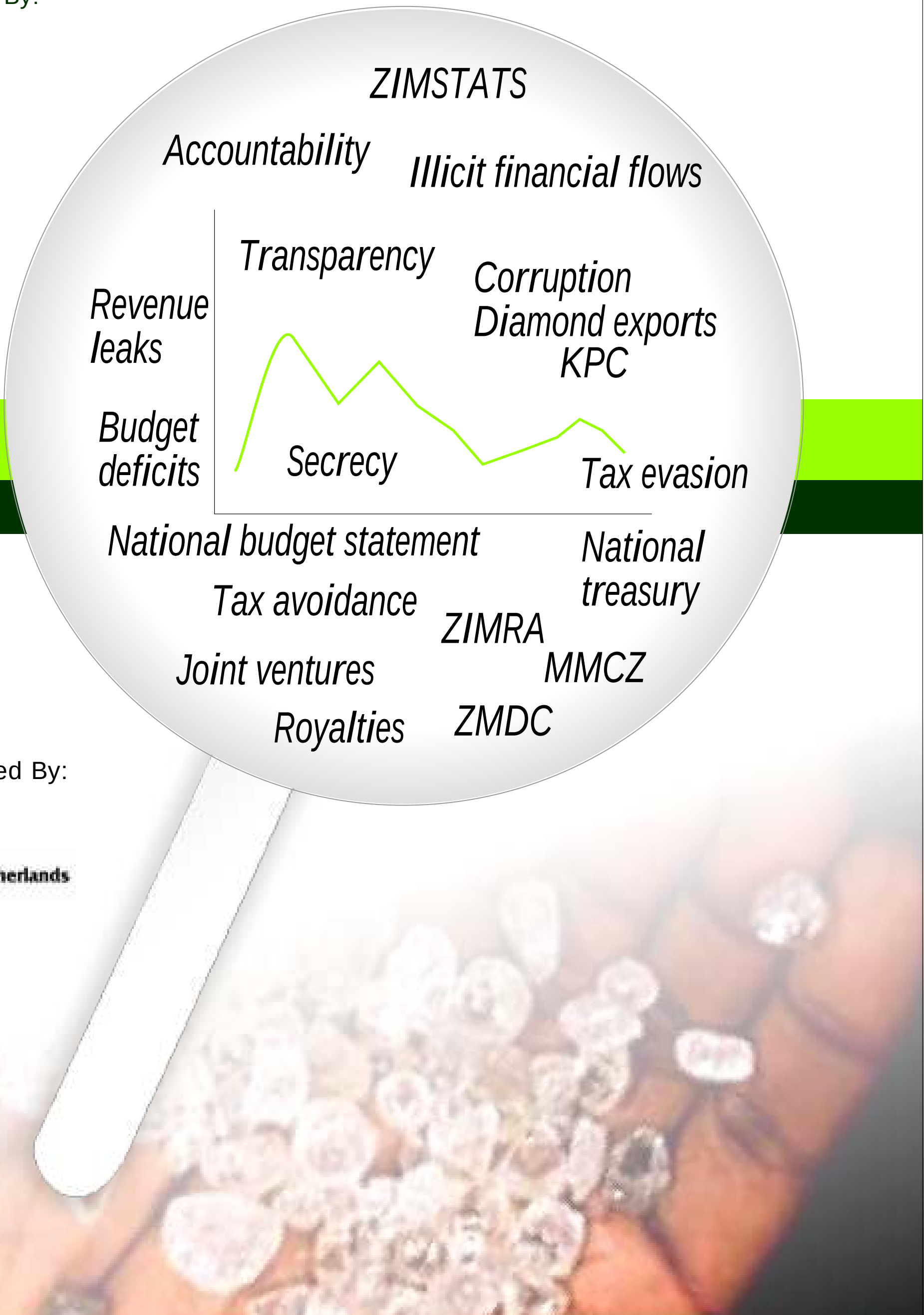

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ACRONYMS

ZMDC- Zimbabwe Mining Development Corporation

ZIMRA- Zimbabwe Revenue Authority

RBZ- Reserve Bank of Zimbabwe

TNC- Transnational Corporation

GNU- Government of National Unity

DMC- Diamond Mining Corporation

MMCZ- Minerals Marketing Corporation of Zimbabwe

CIT- Corporate Income Tax

VAT- Value Added Tax

PAYE- Pay As You Earn

JV- Joint Venture

IMF – International Monetary Fund

SMP- Staff Monitored Programme

DRC- Democratic Republic of Congo

MoF- Ministry of Finance

KPCS- Kimberly Process Certification Scheme

ZIMSTAT- Zimbabwe National Statistic Agency

EITI- Extractive Industries Transparency Initiative

ZMRTI- Zimbabwe Mineral Revenue Transparency Initiative

ZANU PF- Zimbabwe African National Union Patriotic Front

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EXECUTIVE SUMMARY

The Zimbabwe diamond mining industry has attracted the attention of every Zimbabwean. The interest in the industry has also been global. This is, in no small part, a result of the fact that the Marange diamond fields represent a huge find in recent years. The fact that the Marange diamond find had significant deposits of alluvial diamonds only served to heighten public expectations for windfall revenues. It is important to note that the Marange diamond fields started being mined officially in 2009 at a time of great political and economic distress. The Marange diamond field operations were, therefore, hailed as a panacea to the country's economic woes which were characterised by hyper-inflation, industrial closures, a sharp decline in agricultural productivity and food insecurity.

It is now over five years since the start of official diamond mining in Marange. Far from being the answer to the country's economic woes, the Marange diamonds have failed to 'sparkle' for the benefit of the general populace. Despite providing some intermittent financial relief, the expectations of Government and the general public are far from being met. Marange diamonds have been the subject of human rights abuses in the form of forced and irregular relocation of hapless Marange community members, arbitrary arrests of local community members suspected to be diamond dealers and water pollution by diamond mining companies. Instead of providing the necessary 'shot in the arm' for Zimbabwe's ailing economy, the Marange diamonds have been dogged by issues of corruption.

In addition to issues of corruption and human rights abuses, the diamond mining industry has been cloaked in secrecy with very little information being made publicly available. There is very limited public knowledge and information with respect to how the Government enters into joint ventures with private investors to mine in Marange. The contracts signed by the Government and the companies operating in Marange are not in the public domain. In addition, and perhaps most important in the public psyche, there is very limited information on the contributions that diamond mining companies make to national Treasury. There has been a lot of confusion and finger-pointing among Government officials primarily the Ministry of Finance and the Ministry of Mines and Mining Development on the issue of revenue remittance by diamond mining companies operating in Marange.

This research sought to establish the total contributions made by diamond mining companies to national Treasury. The research was aimed at unpacking and analysing the Marange diamonds production and revenue data with a view to ascertaining what the contribution of the diamonds has been from 2009-2013.

The findings show that there is a clear mismatch between the expected or targeted revenue and that which is actually accruing to Treasury. The biggest mismatch or revenue shortfall was recorded in 2012. The Government had expected to rake in US$600 million from diamond mining dividends and royalties yet only US$45 million was realised. In 2013, the Government expected to realise US$61 million but did not manage to get anything in the form of dividends and royalties. The findings from the research also clearly show that there has been a more than five hundred percent (500%) increase in diamond production in terms of carats from 2009-2013. Yet this increase in production has not been matched by an increase in revenue. Instead, there has been a steady decline in dividends and revenues accruing to the national fiscus from 2010-2013. The total amount of money contributed to Treasury by diamond mining companies in Marange from 2010-2013 through dividends and royalties, as gleaned from National Budget Statements, is approximately US$300 million.

The confusion around diamond mining revenue contributions has been made worse by public statements by some of the mining companies involved in Marange pointing to the fact that they have remitted all that is due to the State. The figures publicly given by the mining companies are at variance with those publicly given by the Ministry of Finance. As noted above, the National Budget Statements show that the dividends and royalties from mining operations in Marange are approximately US$300 million over a period of three years. Yet, the former Chair of the Zimbabwe Mining Development Corporation, Mr Godwills Masimirembwa, publicly stated that the corporation had contributed US$300 million to Government coffers in one year (August 2011- August 2012). A key challenge with respect to public information on diamond revenues has been the fact that information on diamond revenues is not public but is often given out by the Minister of Finance during the National Budget Statement presentations. However, the information given out in these Budget Statements is abridged and focuses on non tax revenue in the form of dividends and royalties. It is also important to point out the fact that Government, through the Zimbabwe Mining Development Corporation, is a fifty percent (50%) shareholder in all the diamond mining companies operating in Marange. It is, therefore, almost incomprehensible that the Government laments late and or no remittance of dividends and royalties when the Government itself is an equal partner in the Joint Venture operations in Marange.

As a conclusion, this paper gives recommendations on improving transparency and accountability in the mining sector as a whole. The research clearly makes a case for instituting transparency and accountability in the mining sector. This should be done through reforming our Mines law to incorporate principles of transparency and accountability; adopting and implementing international standards such as the Extractive Industries Transparency Initiative; investigating and decisively addressing reported cases of corruption and reforming Access to Information laws to ensure that information on public assets (such as mineral resources) is made publicly available. In addition, efforts should be made to depoliticise and professionalise the operations in Marange and signal a departure from the scenario whereby all people running the diamond mining companies and sitting within the Boards and that of ZMDC are known political fuctionaries. Without State participation in the diamond mining sector, it may very well be argued that the revenue contributions to Treasury may have been even lower. There is a case for increasing State participation (through ZMDC) in the mining of diamonds albeit on the right terms. Lastly, there is a need for improved oversight by Parliament with respect to Marange diamonds. Audited reports of ZMDC should be presented to Parliament annually and all diamond mining contracts should be subject to Parliamentary scrutiny before being signed or agreed to.

INTRODUCTION

Scope and Organisation

The objective of this research paper is to 'track the trends' with respect to revenues accruing to the national fiscus from diamond mining companies from 2010 to 2013. The first section of the research will outline the research methodology applied. The section will also include some of the challenges encountered in carrying out the research and the limitations of the chosen approach or methodology. The second section of the report will give a brief overview of the extractive sector in Zimbabwe. This section will include a background to the research and the current profile of mining in Zimbabwe. This sets the context within which the research was carried out.

The third section of the report will look at the 'importance of tax within the mining sector'. This part of the research report will unpack the importance of tax in the mining sector for any country that is largely dependent on mineral resource exploitation. The section will show why this research report and national discourse on mining taxation is important. The fourth section of the report will give a detailed account of mining revenue streams in Zimbabwe and the institutions involved.

The fifth section of the report will present and include an analysis of diamond mining revenue and production data from 2010 to 2013. The last section of the research report will give recommendations on how to improve the collection of revenue from the mining sector in Zimbabwe.

Approach/Methodology

The research was mainly a desk study research. This was done by gleaning data on diamond revenue accruing to central government from various official documents and grey literature. In addition, the research approach also included requesting meetings with and information from the Reserve Bank of Zimbabwe, the Zimbabwe Revenue Authority, the Ministry of Mines and Mining Development, the Ministry of Finance and the Office of the Comptroller and Auditor General. During the scoping study the authors examined the revenues and benefit streams flowing from the extractive sector to government drawing upon information from:

- Reviews of legislation on mining taxation and payments
- Discussions with relevant government agencies concerning

taxes/payments

- Discussions with the Office of the Audit Comptroller General
- Review of national budget statements (2009-2013)
- Review of Mid-Term Fiscal Policy Review Statements (2009-2013)
- Review of IMF Staff Monitoring Report 2013
- Review of Audit Reports from the Auditor General of the Government of Zimbabwe

Challenges

The main challenge encountered in carrying out this research was that of access to information. Despite spirited efforts to obtain relevant documents on mining revenues from MMCZ and the ZMDC, the researchers often encountered resistance or stonewalling. This gives credence to the generally held perception that there is secrecy in the diamond mining sector. The researchers also attempted to get information from the Ministry of Finance and from the Zimbabwe Revenue Authority. The researchers, therefore, had to rely on information within the public domain. This information was within National Budget Statements and the Mid Term Fiscal Policy Review Statements among others. It is important to note, however, that the information within these public documents is largely on non tax revenue in the form of dividends and royalties. The information on income tax, value added tax, and Pay As You Earn (PAYE) could not be obtained.

OVERVIEW OF THE EXTRACTIVE SECTOR IN ZIMBABWE

Background and the Current Profile of Diamond Mining in Zimbabwe

The mining sector is now singularly one of the most important sectors of the Zimbabwean economy. Some of the minerals currently being mined in Zimbabwe include ferrochrome, diamonds, black granite, coal, gold, Platinum Group of Metals (PGMs) and nickel.[1] A decline in agricultural production, the discovery of alluvial diamonds, the consolidation of PGMs mining in Zimbabwe and the official adoption of foreign currency has seen mining growing in leaps and bounds; and becoming a sector of increased national importance over the last four years. This is coming on the back of a decade long (2000-2010) period of economic decline precipitated by an equally long political crisis. The combination of a deteriorating macro-economic situation, the exodus of skills, infrastructural bottlenecks and policy unpredictability and uncertainty, ensured that investment in exploration and development has been minimal.[2] This is particularly the case from the year 2000-2010. It is important to note that mining in Zimbabwe is still dominated by transnational mining corporations (TNCs) including Anglo-American Corporation, Rio Tinto, New Dawn, Aquarius Platinum, Caledonia Mining and a host of lesser known Chinese owned corporations. However, this may change with the implementation of the Indigenisation and Economic Empowerment Act. The Act, which was enacted in 2007, requires that 51% of the equity of all commercial enterprises in Zimbabwe must be owned by Indigenous Zimbabweans. It is expected that the implementation of the Act will see increased state ownership and participation in mining as is the case in Marange diamond mining fields where the government, through the ZMDC, has 50% ownership of all the diamond mines except for Marange Resources where the ownership is 100%.

In 2011, Zimbabwe's mineral output amounted to about 7% of the world's diamond production (by volume), 5% of the world's platinum production, and about 4% of the world's palladium output.[3] This clearly shows that Zimbabwe is a significant player in the global mining industry. According to the Chamber of Mines, the mining sector has grown by over thirty five percent (35%) in the period 2009 to 2011. The mining sector's contribution to Gross Domestic Product (GDP) increased from 4% to 16, 9%.[4] Since the start of the commodity boom in 2002, the

[1] Chamber of Mines of Zimbabwe

[2] Tony Hawkins, 2009, The Mining Sector in Zimbabwe and its Potential Contribution to Recovery, The United Nations Development Programme Comprehensive Economic Recovery in Zimbabwe Working Paper Series, Working Paper 1

[3] United States Geological Survey (2011) Minerals Yearbook, Zimbabwe, http://minerals.usgs.gov/minerals/pubs/country/2011/myb3-2011-zi.pdf

[4] *The Herald.(2013)*'Mining Sector in 35% Growth'. 26 September

share of minerals in total exports has averaged 49 percent. Mining exports as a share of total exports doubled from twenty seven percent (27%) in the year 2000 to fifty three percent (53%) in 2008.[5] In 2012, declared mineral export shipments accounted for 64% of total exports while in 2011, the contribution was 67%.[6]

Although the country has a long history of diamond mining beginning in 1903, diamond mining has become more significant after the "official discovery" of the Marange diamond fields in 2006.[7] Apart from the Marange diamond fields, Zimbabwe has two other known diamond mining areas; namely River Ranch in Beitbridge and Murowa mine in Zvishavane.

Marange diamonds are estimated to be the biggest discovery of diamonds in the last century with unconfirmed reports suggesting that they have the potential to supply between 20-30% of world diamond production worth over US$2 billion per year.[8] Estimates about Marange diamonds states are that about 10% of the diamonds in the Marange fields consist of gem and near gem quality diamonds, while about 90% consist of industrial quality diamonds.[9] The discovery of alluvial diamonds in Marange resulted in an up-swell of illegal artisanal small scale mining in the Marange area. These artisanal small scale miners operated illegally and were drawn from across the whole country. Illegal diamond mining and smuggling subsequently flourished with diamond buyers from Lebanon, Mozambique and other countries taking up residency in the nearby city of Mutare.

Having realised this chaotic and 'free for all' scenario, the government moved in to stop illegal diamond mining and began the process of formalising operations in the Marange diamond fields. The process of formalising the diamond mines resulted in the Zimbabwe Mining Development Corporation entering into joint ventures (JVs) with other partners to mine diamonds in Marange. The formalisation of mining in Marange was expected to result in windfall revenues accruing to central government. Expectations were high that the Marange diamonds would provide the much needed spark to ignite broad based economic growth in development in the country. It is important to reiterate that diamonds in Marange were 'discovered' after a tumultuous decade-long period of political turmoil and

[5] Hawkins. T (2009). The Mining Sector in Zimbabwe and its Potential Contribution to Recovery, The United Nations Development Programme Comprehensive Economic Recovery in Zimbabwe Working Paper Series, Working Paper 1

[6] Ministry of Finance, 2013 National Budget Statement

[7] Although prospecting of Marange Diamonds began in 1963, their presence and extent were kept a closely guarded secret by De Beers under the disguise of prospecting until illegal diamond panners invaded the area in 2006. For a detailed discussion on how De Beers successfully kept it a secret from the Zimbabwe Government, see Farai Maguwu: 'Zimbabwe's Diamond Story: Unbundling the mystery that surrounds it' a paper that was presented at the Southern African Political and Economic Series Policy Dialogue meeting in 2011.

[8] *The Herald*. (2011).'Zimbabwe does not need De Beers'. 3 November, 2011

[9] Kimberley Process Certification Scheme, Chair's Notice (issued 6 May 2010), Production Footprint of Marange Diamond Fields (6 May 2010)

unprecedented economic decline in Zimbabwe. Diamond mining, therefore, was viewed as having the potential to extricate the country from the economic doldrums and offer much needed economic relief.

Despite the government entry into the diamond mining sector and the formalisation of mining activities in Marange, the expected economic relief from Marange diamonds has not been felt by the general citizenry. Far from the realisation of windfall revenues, the revenues accruing from diamond mining have been the source of conflict within the previous Government of National Unity (GNU) from 2008 -2013. The former Minister of Finance, Hon. Tendai Biti has been on record, innumerable times, lamenting the choking of revenue flows from the mining companies to Treasury.[10] Meanwhile, the Ministry of Mines and Mining Development, the Zimbabwe Mining Development Corporation (ZMDC) and mining companies involved in diamond mining in Marange have all stated that all money due to the state has found its way to the national Treasury.[11]

This has raised public interest and questions on how diamond mining revenues flow from the mining companies to the Treasury. There is limited clarity within the general public on the total revenues that have accrued to the State from diamond mining ventures. The total value realised from Marange diamonds, in terms of royalties, dividends, other taxes and payments to date, is not immediately clear or publicly known. There is limited public knowledge of the institutions involved in handling mining revenue and the points at which they handle this revenue. There is also limited public understanding of the various taxes, royalties and other payments that are due to the State from the mining companies. In essence, the whole mining value chain in the diamond industry has been clouded in secrecy. From the granting of claims, signing of contracts or constitution of the JVs, the production processes, right through to the sales of the diamonds and remittance of the revenues due to State. All these processes have not been open to public scrutiny.

Previous reports by civil society groups have focused on equally important issues related to the militarisation of diamond mining, human rights violations in the mining areas, the plight of relocated community members and opacity surrounding the contracts and diamond revenues.[12] As far as can be ascertained,

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[10] Ministry of Finance. 2011 National Budget Statement

[11] Ndlovu, R. (2012) MDC accuses diamond miner of funding shadow ZANU-PF, *The Mail and Guardian* 29 June 2012 http://mg.co.za/article/2012-06-28-mdc-accuses-diamond-miner-of-funding-shadow-zanu-pf

[12] M. Dhliwayo and S. Mtisi. (2012). Towards the Development of a Diamond Act in Zimbabwe: An analysis of the Legal and Policy Framework on Diamonds and Zimbabwe's Compliance with the Kimberly Process Certification Scheme (KPCS) Mining Requirements

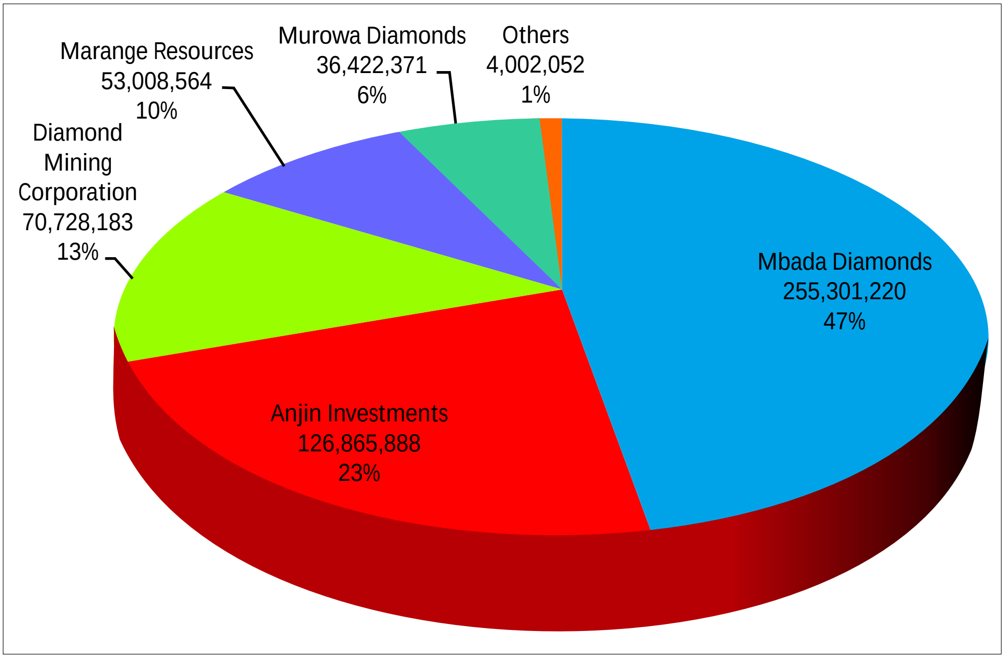
there have been few attempts, if any, to unearth the value of Marange diamonds to Zimbabwe's national fiscus (taxes, royalties and other payments/fees). The research project, therefore, endeavoured to gather as much information as available in the public domain in-order to track the trends in terms of diamond mining contribution to the national fiscus from 2010 to 2013. The idea is to project what the contributions have been and the respective revenue heads. The following questions are key; Have the revenues declined or increased over the last four years? What have been the challenges in terms of revenue flow from mining companies to the national Treasury?

At the time of compiling this report, there are reportedly more than seven (7) companies known to be involved in the Marange diamond fields and these include Mbada Diamonds, Diamond Mining Corporation, Marange Resources, Anjin, Gye Nyame, Jinan and Nan Jiang Africa. All the companies are 50% JVs with the government through the ZMDC save for Marange Resources which is wholly owned by the Government of Zimbabwe. An equally important diamond mine which is not located in Marange is the Rio Tinto owned Murowa Diamonds which is located near Zvishavane in the South Western part of Zimbabwe. Other lesser known and small diamond mining companies include River Ranch, DTZ OZGEO, Diamond Angel, Volksic Industries and Aurex Diamond. Other companies are still carrying out prospecting and exploration work in the Mkondo Geological complex which hosts the Marange diamond fields.

From a statistical perspective, Figure 1 overleaf drawn from the 2013 National Budget Statement shows the diamond exports from all the diamond mining companies from January to October 2012 and the percentage contribution to total diamond exports for each of the mining companies. Within that period, Mbada Diamonds and Anjin Investments' share of exports was 70% with all the other mining companies including Diamond Mining Corporation, Marange Resources and Murowa contributing the remaining 30% share of diamond exports. Drawing from this, it is evident that the biggest diamond mining corporations at present are Mbada Diamonds, Anjin Investments, Diamond Mining Corporation and Marange Resources.

Diamond Exports to October 2012

Fig.1



Source: 2013 National Budget Statement-Ministry of Finance

In accordance with the Minerals Marketing Corporation of Zimbabwe Act, the state-owned Minerals Marketing Corporation of Zimbabwe (MMCZ) handles all mineral and metal trade in Zimbabwe.[13] Notable official exceptions are gold and PGMs. The Reserve Bank of Zimbabwe's monetary policy statement of February 2, 2009, authorizes organizations that hold appropriate permits to export gold. In the case of diamonds, the diamond mining corporations handle the marketing with the oversight of the MMCZ. Platinum mining companies directly ship the PGM concentrates and matte to processing facilities in South Africa.[14]

[13] Jourdan P. Chigumbura G, Kwesu I and Chipumho E (2012), "Mining Sector Policy Study", Zimbabwe Economy Policy Analysis and Research Unit

[14] United States Geological Survey, 2011 Minerals Yearbook, Zimbabwe, http://minerals.usgs.gov/minerals/pubs/country/2011/myb3-2011-zi.pdf

TAXATION IN ZIMBABWE'S MINING SECTOR

Importance of Tax in the Mining Sector

The mining sector has a specific tax code that is applicable to the sector. This is because the mining sector is 'special'. This is due to the fact that mineral resources are non-renewable or finite public resources. It is also in part due to the fact that the mining sector plays a dominant role in the economy, accounting for a large share of export earnings but without commensurate contributions to the fiscus. There is, therefore, a need to fully and optimally capture, manage and distribute benefits accruing from the exploitation of mineral resources. Taxation represents an important instrument that enables governments to capture benefits from mineral assets. Taxation allows the State to mobilise domestic resource and redistribute wealth by providing public goods like education, health and infrastructure.

It is important to note that tax, royalties and dividends, in cases where government has equity participation, are the main tools through which the government can benefit from mining activity. Mineral resources are public assets and the government as the trustee should publicly disclose mineral revenue and expenditure for public scrutiny. Public disclosure of revenues can help the public to interrogate and assess whether government is getting a 'fair deal' in terms of mineral resource exploitation. Given the 'fickle' nature of international mineral prices as evidenced by boom and bust cycles, it becomes pertinent to ensure that deals that are struck with mining companies allow the government to capture as much benefit as possible during increases in global prices; and is not extremely prejudiced during the decreases in world mineral prices.

In this instance, taxation becomes an important tool with which to capture fair benefit from the exploitation of mineral resources. This is also particularly important in developing countries like Zimbabwe where there is an over-dependence on mineral commodities for export earnings. Currently, there is very limited fiscal room such that international minerals price volatility can cause severe fiscal stress. Unpredictable price fluctuations can significantly reduce national revenue, cost millions of jobs, make fiscal planning extremely difficult and this in turn makes it extremely difficult to plan sustainable social and economic development programmes. This was amply demonstrated during the 2002 to 2008 commodity price boom. By the end of 2001, commodity prices were 33 percent below their

January 1995 price level. Commodity prices then went on a 224 percent climb from December 2001 to the peak of the price boom in April 2008. In the crash that followed, commodity prices lost 38 percent of their value from April to December 2008. Taxation becomes a tool for national revenue management that can result in fiscal stabilisation measures that allow for countries to absorb price volatility shocks.[15]

The diamond mining sector is also exposed to commodity price volatility. A KPMG Quarterly Commodity Insights Bulletin for the third quarter of 2012 noted that macroeconomic uncertainties such as the Euro-zone crisis and lower demand from India exerted downward pressure on diamond prices in 2012. The same report notes that diamond prices are expected to pick up in 2014 due to constrained supply,[16] stable US demand and increased demand from emerging economies. There is an expected seven percent increase (7%) in 2014, a peak rise of nine percent (9%) in 2015 and then a four percent (4%) per annum growth until 2020 with respect to the price of rough diamonds.[17] The foregoing information clearly shows that the diamond industry is not immune to the vagaries of an unstable global economy. Indeed, the forecasted increase in prices can change in a situation of higher volumes of lower value diamonds entering the market. This market volatility in the diamond sector makes it all the more important to ingeniously structure the mining fiscal regime to fully capture benefits from diamond mining during the 'good times' while absorbing price declines during the 'bad times' hence the importance of the gamut of revenue streams including tax, royalties and dividends among others.

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[15] UNDP, 2011, TOWARDS HUMAN RESILIENCE: Sustaining MDG Progress In An Age Of Economic Uncertainty http://www.undp.org/content/dam/undp/library/Poverty%20Reduction/Towards_SustainingMDG_Web1005.pdf

[16] As miners move underground to sustain production levels from the mines, the geology of kimberlite pipe does not allow them to maintain the same production levels. The kimberlite pipe is carrot shaped and gets very narrow as you go deeper. Approximately 50 percent of the production at the mines can be lost when mines go underground.

[17] KPMG. 2012.'Quarterly Commodity Insights Bulletin, Third Quarter'. November 2012 https://www.kpmg.com/AU/en/IssuesAndInsights/ArticlesPublications/commodity-insights-bulletin/Documents/commodity-insights-bulletin-diamonds-2012-q3.pdf

Mining Taxes in Zimbabwe

The statutory body mandated with collecting taxes in Zimbabwe is the Zimbabwe Revenue Authority (ZIMRA). The tax mix that ZIMRA administers with respect to mining and applicable to diamond mining companies is detailed below;

Mining Taxes		
Tax	Description	Rate
Diamond Royalties	These are calculated as a percentage of the gross market value of diamonds sold. Therefore, royalties are not income based and are paid regardless of whether profits or losses are made.	15%
Resource Depletion Fee	This is a tax levied in recognition that minerals are finite and wasting resources hence the term 'depletion fee'. It is levied on gross sales of gems.	2.5%
Company Income Tax/Corporate Tax	All mining companies are taxed on their taxable income or profits as determined in line with the Zimbabwe Income Tax Act. Thus corporate tax is profit based tax unlike royalties. Corporate tax is less predictable, prone to tax evasion and avoidance hence difficult to administer.	25%
Surface/Ground Rentals	These are not deductible for income tax and are imposed at varying rates during the prospecting, exploration and development stages of a mining project.	
Withholding taxes	A tax levied on income (consulting fees, commissions, royalties, rent, interest, dividends and payments to non resident contractors). The payer is required to pay the tax deductible to ZIMRA. .	10%
PAYE	This is an indirect tax withheld or deducted from employees' wages and paid directly to the government by the employer which varies with bands	20%-45%
Import VAT	Value Added Tax paid by the Extractive Companies on the import of goods into Zimbabwe	15%

One of the most important payments that diamond mining companies make to the Government of Zimbabwe are royalty payments. Royalties are an attractive form of taxation as they are simple to administer. The government (through ZIMRA) simply needs to know a company's total sales or production to determine its tax liability. This does not only reduce administrative costs, it reduces corruption and the incentives mining companies have to devote resources to tax reduction efforts. These advantages are less evident with pro?t based tax.[18] Mining royalties are charged in terms of the Mines and Minerals Act (Chapter 21:05).

Mining royalty rates are as follows:

	Mineral	Rates of royalties with effect from the 1st of January 2012
(a)	Diamonds	15%
(b)	Other precious stones	10%
(c)	Gold	7%
(d)	Platinum	10%
(e)	Other precious metals	4%
(f)	Base metals	2%
(g)	Industrial metals	2%
(h)	Coal bed methane	2%
(i)	Coal	1%

Source: Zimbabwe Revenue Authority 2012

Royalties for diamonds have been revised over the years as indicated by Table 2 below;

Changes to Royalties and Mining Fees (as of 2012)

	Gold	Diamonds	PGM	Coal
Old Royalty	4.5%	10%	5%	
New Royalty (2012)	7%	15%	10%	1%
Old Fees	NA	$1 million and nil	Varied; less than $50 000 in total	$5000 and $100 000
New Fees (2012)	NA	$1 million application fee for prospecting and $5million registration fee for a claim, which includes mining if feasible deposit	$500, 000 application fee and $2.5 million registration free	$100 000 application fee and $500 000 registration fee
Ground rental	NA	From nil to $3000/ha	From nil to $1000/ha	From nil to $100/ha

Source: ZEPARU, Mining Sector Policy Study 2012

[18] Otto, J., 2006, Mining Royalties A Global Study Of Their Impact On Investors, Government, And Civil Society, Directions in Development: Energy and Mining, The World Bank http://www.revenuewatch.org/sites/default/files/Otto%20et%20al.%20-%20Mining%20Royalties.pdf

The fees have since been revised downwards. A Government Gazette of 8 March 2013 reduced the application fees for registering as an approved prospector by 20 percent, from USD5,000 for five years to USD4,000 for five years. Fees for an ordinary prospecting license were reviewed downwards by 25 percent, from USD1,000 to USD750, while levies for inspections of gold claims were reduced from USD100/5ha to USD100/10ha. The fees for diamonds and platinum remained unchanged.[19]

In addition to the afore-mentioned taxes, the government through the Ministry of Mines and Mining Development; and the Ministry of Finance also collects various fees and payments as detailed below;

Ministry of Mines and Mining Development	
Fees	Description
Application fees	Fees paid on application for a mining licence (prospecting/mining)
Licence fees	Fees payable by companies or individuals applying for the grant of a mining licence or permit
Environmental Protection Fund	Charge to extractive companies for environmental restitution purposes
Ministry of Finance	
Dividends from government shares	This is the distribution of profits in proportion to the shares directly held in an extractive company by the Government of Zimbabwe. Dividends are important in the context of Zimbabwe as the Government has a 50% ownership in all the diamond mining companies operating out of Marange. Dividends represent a share in the profits of the mining companies and represent a significant revenue stream.

19 African Development Bank. 2013. *Zimbabwe Monthly Economic Review*, Issue No. 12, April 2013 http://eeas.europa.eu/delegations/zimbabwe/documents/20130528_02_en.pdf

RESEARCH FINDINGS

Government Receipts

The information on the contribution of diamond mining to Treasury has mainly been gleaned from the National Budget Statements. Diamond mining companies contribute to national Treasury through taxes and non tax revenues including dividends and depletion fees. The revenue that is normally reported, in National Budget Statements, as having accrued to national Treasury is with respect to non tax revenue. Tax revenues relate to corporate income tax (CIT), withholding taxes and employees' Pay As You Earn (PAYE). The government receipts detailed in this section, therefore, relate only to non tax revenue with the import being that the contribution by diamond mining companies to National Treasury is likely higher. The non tax revenue (mainly dividends), however, give an appropriate approximate of how much Treasury has received from mining companies as non tax revenue (dividends) constitutes the highest and most important revenue head.

In the 2012 National Budget Statement, the then Minister of Finance, Hon. Tendai Biti reported that non tax revenue (dividends) remitted to Treasury by the diamond mining companies for 2010 was US$174 million. In the same Statement, it was noted that diamond mining companies had contributed US$80 625 003.88 in 2011. The US$80 625 003.88 was against shipments of over US$238 million. For 2012, diamond mining companies contributed US$45 million against shipments of over US$563 million. It is important to note that the targeted diamond mining revenue in the 2012 Budget had been set at US$600 million. There was a US$555 million shortfall between targeted and realised diamond mining revenue in 2012. It is also important to note that there was an increase in shipments from US$238 million to US$563 million from 2011 to 2012. However, this increase in shipments was not matched by an increase in revenue accruing to Treasury. Within the same period revenue accruing to Treasury dropped from US$80 625 003.88 to US$45 million inexplicably.

As of November 2013, the contributions by diamond mining companies with respect to dividends stood at US$0 million. The diamond mining companies had not contributed any non tax revenue to Treasury. This is discounting the US$1.6 million that Treasury received from the US$10.7 million diamond sale in Antwerp, Belgium.[20] The mismatch between expected revenue and the actual or realised for 2013 was also very apparent. The targeted or expected dividend for 2013 was US$61 million yet there was no remittance of dividends to Treasury as of November 2013. The total amount of non tax revenue remitted to Treasury by diamond mining companies from 2010-2013 based on information presented in National Budget Statements stands at approximately US$300 million dollars.

Tax payments

The research established that there are various payments, taxes and fees that diamond mining companies pay to the state through various agencies. These payments and fees are due to the State primarily as a result of the fact that most diamond mining operations in Marange are structured as JVs. Some of the payments that mining companies are required to make to the government include, royalties dividends and other taxes. Diamond auction sales are conducted through the MMCZ. From the sales, royalties, calculated at 15% of gross sales are deducted and remitted to Treasury. The royalty rate was increased from 10% to 15% in 2010 on the back of the realisation that mining sector contribution to national fiscus was low. In presenting his Mid-Term Fiscal Policy Review for 2010, Former Finance Minister stated that *"Despite improvements in the price of precious metals on the international market, tax revenue contribution of the mining sector to the fiscus remains insignificant"*.[21] A resource depletion fee of 2.5%, levied on gross sales, is deducted and remitted to Treasury. The MMCZ also levies a commission of 0.875% on diamond sales. The remaining amount, after the royalties and MMCZ Commission is deducted, is handled by the JV mining concern. Of that amount, 5% is taken as management fees (2.5% goes to ZMDC and the other 2.5% goes to the partner). Part of the sales proceeds cover operational costs such as procurement and salaries/wages through which the government receives indirect taxes in the form of Value Added Tax and Pay As You Earn (PAYE). The remaining proceeds represent profits. The JV mining concern may decide to pay dividends and reserve some of the profits. A withholding tax of 10% is levied on dividends. *(See Fig. 4 on page 18)*

However, the flow of revenue from the point of diamond sales right through to remittance to Treasury in various forms of payments is not as clean cut and simple as afore-mentioned. There are some bottlenecks that choke revenue flow to Treasury. The first challenge is sanctions. The US Government and the European

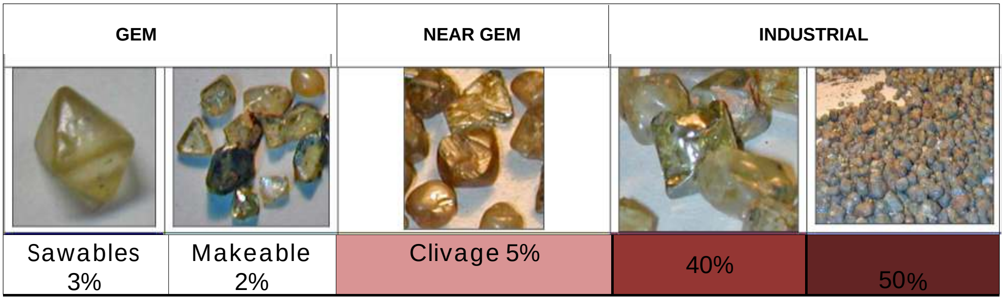
[20] S.Ndamu. (2013) 'Zimbabwe plans bigger diamond tender'. The Zimbabwe Independent, 22 December http://www.thestandard.co.zw/2013/12/22/zimbabwe-plans-bigger-diamond-tender/

[21] Mpofu, B. (2010) 'Government Proposes New Tax For Miners'. *The Zimbabwe Independent*,15 July http://www.theindependent.co.zw/2010/07/15/govt-proposes-new-tax-for-miners/

Union have maintained sanctions on diamond mining companies operating in Marange. This has inhibited the ability of the companies to freely market the diamonds. The government and the companies operating in Marange have, therefore, been saying that they are using sanction busting measures including trading with intermediaries and not being fully transparent to avoid the sanctions. This has created loopholes and possibilities of leakages of the revenue through smuggling and or money laundering.The EU recently lifted sanctions on the ZMDC and, by extension, companies operating in Marange and this is expected to ease diamond trade by the companies.[22]

Another issue affecting diamond sales is the quality of diamonds mined in Marange. Most of the diamonds mined in Marange are industrial (as shown below in Fig. 2) and this affects diamond prices and valuation.

Fig. 2



Source: Kimberly Process, 2008, Production Footprint Marange Diamond Field

There are also challenges related to smuggling. There have been numerous media reports of smuggling of Marange diamonds out of the country to India and China.[23] In addition, there are reports of leakages through smuggling through the Mozambican border although there have been efforts to curb smuggling through improving security at mine sites and in transit. It is, therefore, important to note that at the very first stage of diamond sales, there are bottlenecks to obtaining full value from the diamonds mined from Marange.

Another challenge to the flow of revenue from diamond mining is that there is no clarity on some of the revenue heads. This is particularly evident with respect to dividends. Dividends and royalties represent the major revenue heads from

[22] *Reuters*. (2013) '*EU to Lift Sanctions on Diamond Mining Firm*' 17 September http://www.reuters.com/article/2013/09/17/zimbabwe-elections-eu-idUSL5N0HD2FE20130917

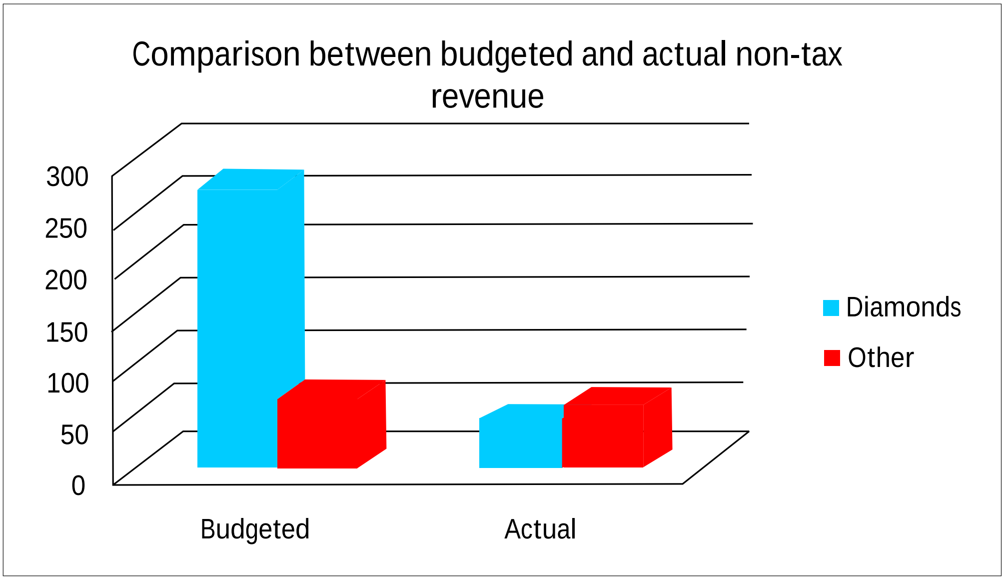
[23] *The Standard*. (2013) '*$2Billion Worth of Diamonds Smuggled*' 24 February http://www.thestandard.co.zw/2013/02/24/us2bn-worth-of-diamonds-smuggled/

diamond mining. There is now an expectation gap that has arisen in terms of whether or not companies are remitting dividends to the government. Yet declaring dividends is dependent on the mining operation's profitability and is also at the discretion of the Board of the mining company. The Board of the mining company may see it worthwhile to continue reinvesting profits into mine expansion or new exploration over a period of time. Benchmarking a large proportion of the national budget against expected dividends from diamond mining firms can, therefore, have catastrophic effects on government expenditure plans. According to the Zimbabwe Mining Development Act (Chapter 21:08 of 1982) Part V, the ZMDC is also supposed to pay dividends to its shareholders (Government). However, according to the same Act, this is supposed to be at the end of the Financial Year which is the 30th of June. More tellingly, the dividends paid out from surplus of profits are to be determined by the Board in relation to that year. There is, therefore, a need to provide statutory clarity with respect to dividends from diamond mining operations in Marange as there is now an expectation that dividends should be paid out at the close of each and every financial year or even the paying out of interim dividends.

Diamonds and the IMF Staff Monitored programme

The mismatch between the budgeted and actual non-tax revenue was recently evident in 2012 whereby there was a big mismatch between the budgeted and the realised revenue. Indeed the IMF Staff Monitored Programme (SMP), in which the government is participating, amongst other recommendations, called for the enactment of a statutory instrument that establishes a clear formula for the calculation and payment of interim dividends to the Treasury by diamond mining companies operating in Marange. The IMF SMP covering the period April 2013 to December 2013 (although this was further extended to June 2014) is an informal agreement between the Zimbabwean government and IMF Staff to monitor the implementation of Zimbabwe's economic reform programme. The SMP focuses on improving public financial management, protecting infrastructure investment and social sector spending; and increasing diamond revenue transparency among other issues. It is important to note that the government has stated its commitment to implementing the IMF SMP and this has been driven by the need to get relief and or clear domestic and international debt arrears so as to access international credit or financing. Despite the stated commitment to implement the IMF SMP, the government had to request an extension after failing to meet its obligations under the programme. Part of these obligations included adopting a new Minerals Policy and preparing a report to account for the US$555 million dollar shortfall in expected diamond dividends in 2012.[24] As already argued, dividends are the leading diamond revenue stream and it is important to legally secure this important revenue stream. This would greatly assist in mitigating the fiscal stress suffered in 2012 when the US$600 million diamond dividend failed to materialize.

Fig.3



Source: 2012 Mid-term statement (Figures are in millions)

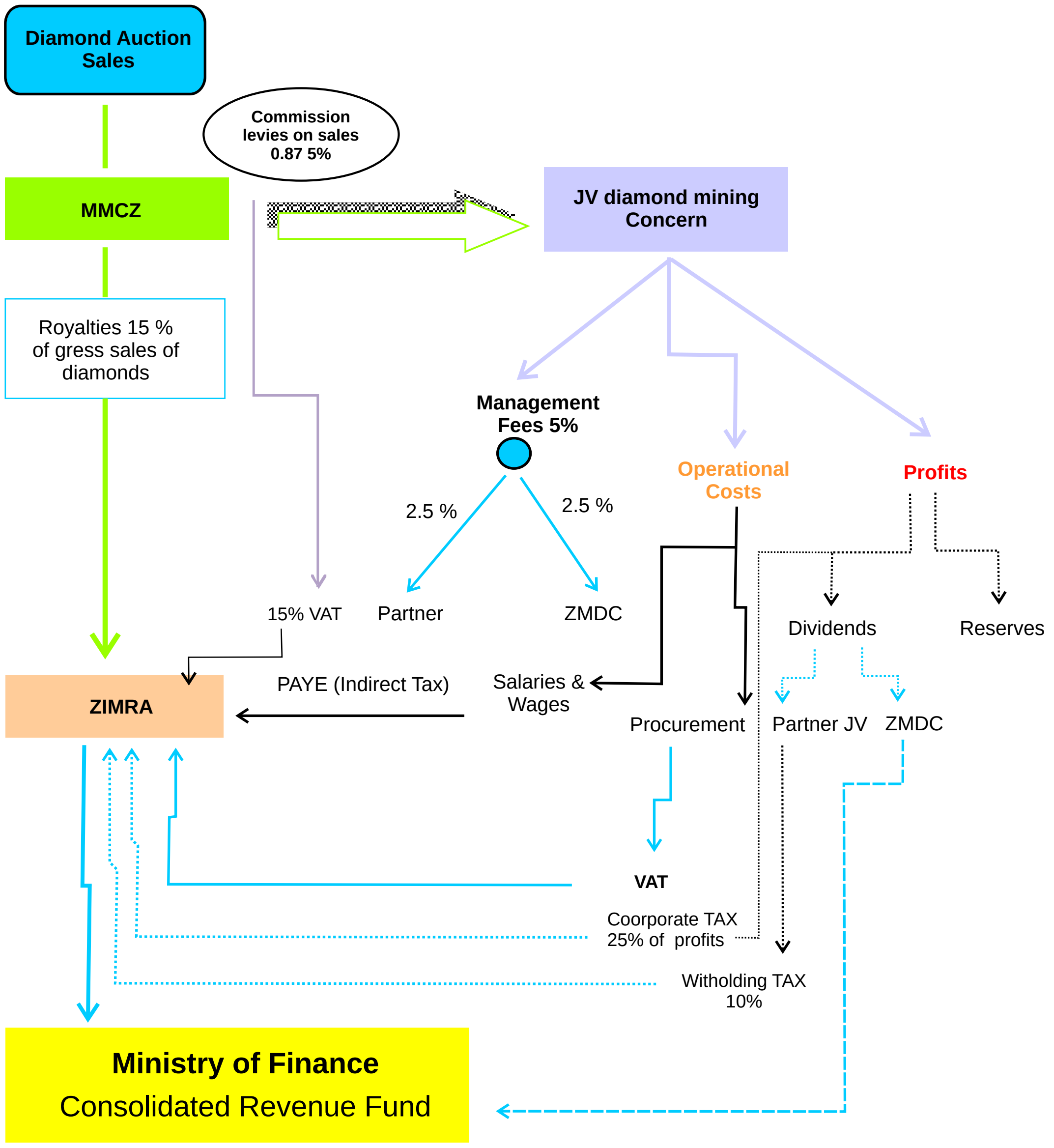
Targeted diamond non tax revenue for the first half of the year was US$271 million and US$41.7 million was received giving a unfavourable variance of US$229,3 million (-84,61%). The targeted revenue was an expectation of dividends. The government suffered a lot of fiscal pressure in 2012 due to the large shortfall in diamond revenue. Such huge shortfalls point to the fact that the forecasts of diamond revenue flows were off tangent or there were challenges with remittance of revenue to Treasury.

[24] Zimbabwe Staff Monitored Programme, IMF Country Report No. 13/193, July 2013 http://www.imf.org/external/pubs/ft/scr/2013/cr13193.pdf

To simplify the complex web of payments and the entities involved, see the diagram below:

Fig. 4

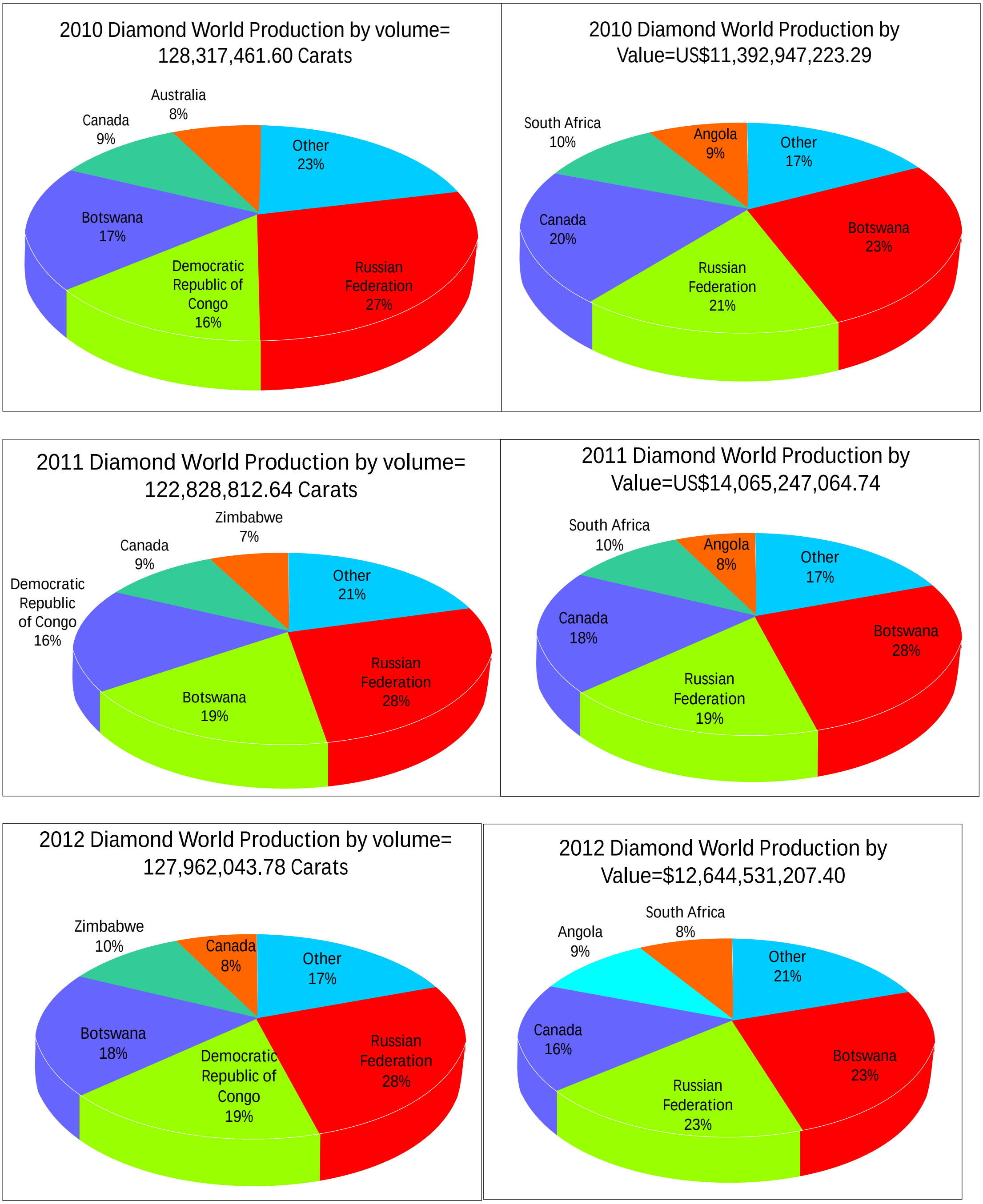
Flow of Money In Diamond Mining



Global and National Trends on Diamond Production and Exports

The charts by the Kimberly Process Certification Scheme on world diamond production by volume and value from 2010-2012 (below) illustrate the growth trajectory of Zimbabwe diamond production's share in the world. It is evident that there has been a marked increase in production of diamonds in Zimbabwe from 2010-2012. In 2010, the country did not singularly feature among the world's top diamond producing countries. However, the country's share of world production in 2011 was 7% with this rising to 10% in 2012. What is interesting in the data findings is that the increase in the share of world production by volume was not matched by a corresponding increase or growth in the share of world diamond production by value within the same period. Zimbabwe's case is not unique as the Democratic Republic of Congo (DRC) mirrors Zimbabwe's situation in the same charts. From 2010 to 2012, the DRC has featured prominently amongst the top world diamond producing countries but its share of world diamond production by value was not significant enough to warrant singular categorisation. However, while Angola and South Africa do not feature amongst the world top five diamond producers by volume the same countries are found amongst top five producers by value. This is likely attributable to diamond quality. Industrial diamonds fetch lower market prices than gem quality diamonds and it is likely that while there has been an increase in production, this increase has not catapulted the country into the top diamond producers by value due to the fact that most of the diamonds mined in Marange are industrial diamonds.

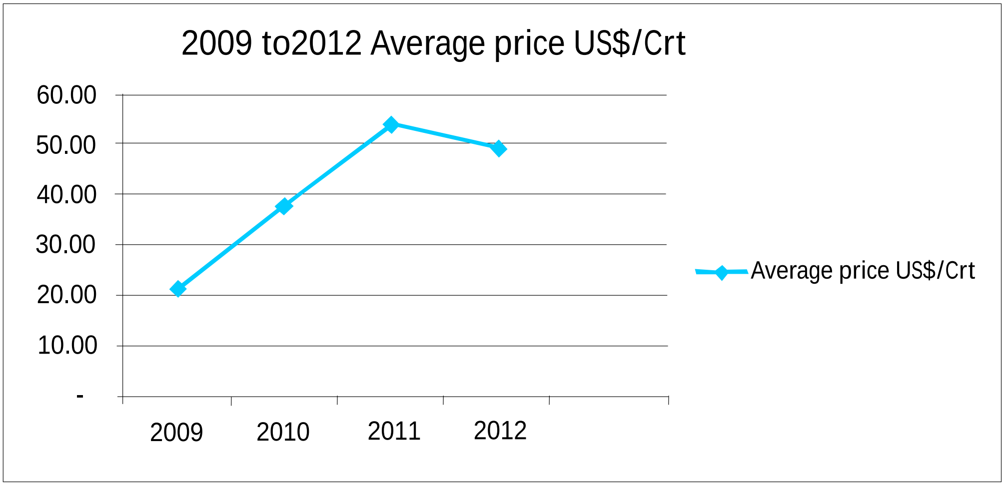
The pie charts in Fig. 5 below illustrate world diamond production and value from 2010 to 2012.



Source: Kimberly Process Certification Scheme

As new mines begin operations in Marange and production is ramped up, there is an expectation that the trend in terms of contribution to the national fiscus from 2009 to date would be increasing especially in the initial phases of mining as the diamonds initially mined are alluvial, which would be cheaper and less technical to mine when compare to under-ground mining of kimberlite. Zimbabwe average diamond prices per carat rose significantly from 2009 to 2011 and fell slightly in 2012. This peak in prices coincided with increased diamond production. Thus the period 2009 to 2012 has not been marked with diamond price volatility which can wreck havoc in terms of predictability of diamond revenue. The fall in revenues accruing to Treasury from 2010 to 2013 cannot, therefore, be explained away by market volatility. The relative price increase and stability from 2009-2012 is captured in Fig 6 below:

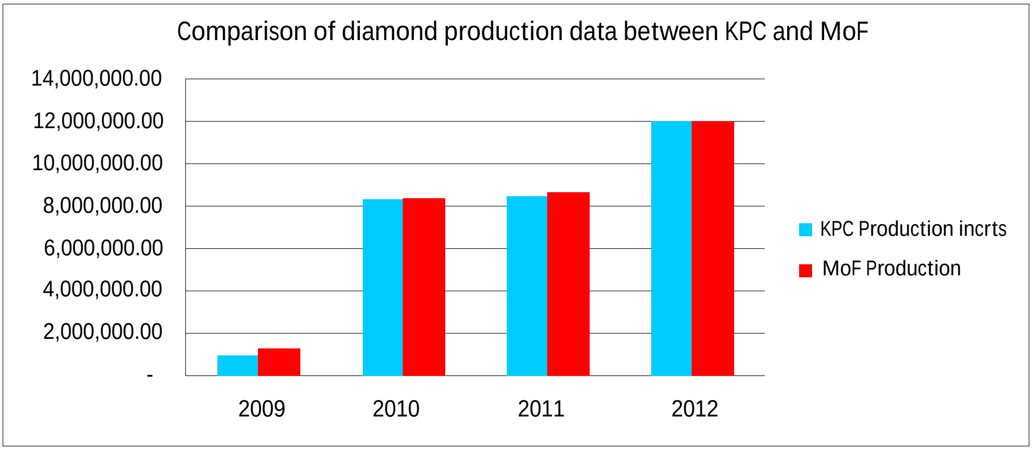
Fig. 6



Source: KPC

In terms of production, the research also established that there are some variations (however miniscule) in terms of production data from the Kimberly Process Certification Scheme and that obtained from the Ministry of Finance as shown in Fig. 7 below. This is evident in the production data sets for 2009 and 2011. Thus while both data sets indicate an increase of production in terms of production trend, obvious concern rises from the conflicting data. In essence, the integrity of the data is compromised.

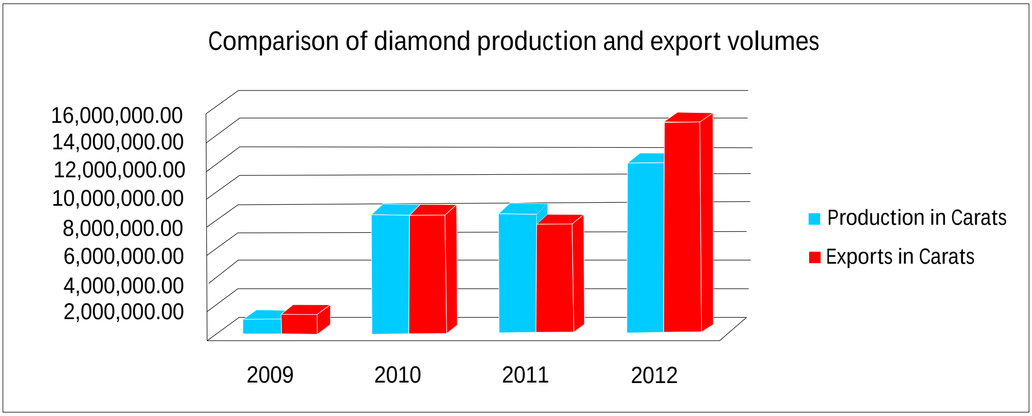
Fig. 7



Source: KPC and MoF annual and mid-term national budget statements from 2010-2013. Note: *2012 diamond production data from the MoF were projected.*

The relationship between diamond production and diamond exports was also analysed. The data clearly showed that the country managed to sell most of the diamonds it produced as shown in Fig. 8. It is also important to note that diamond production rose from less than 2 million carats in 2009 to over 12 million carats in 2012. This is a significant increase and is important in terms of juxtaposing production trends and revenue trends.

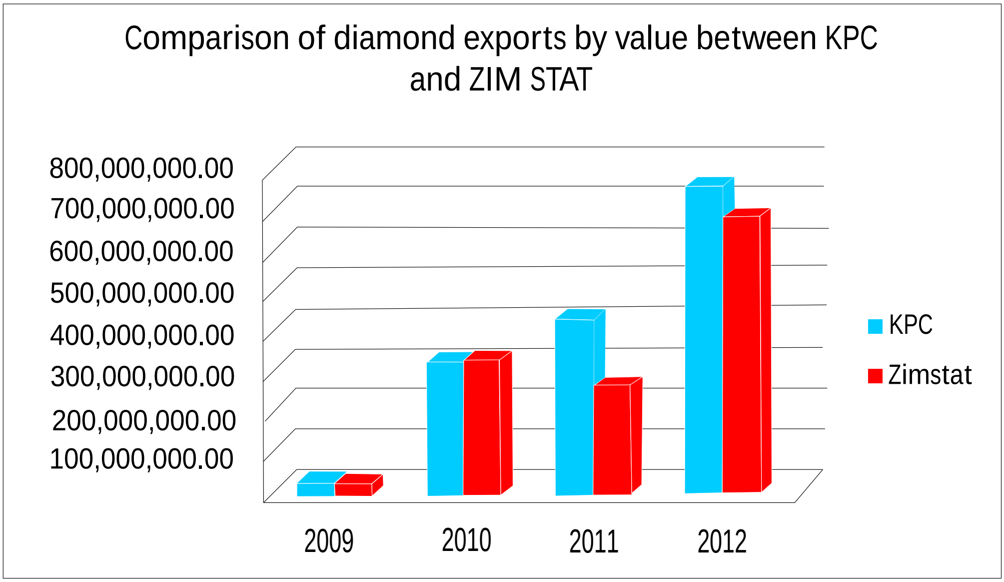
Fig. 8



Source: KPCS

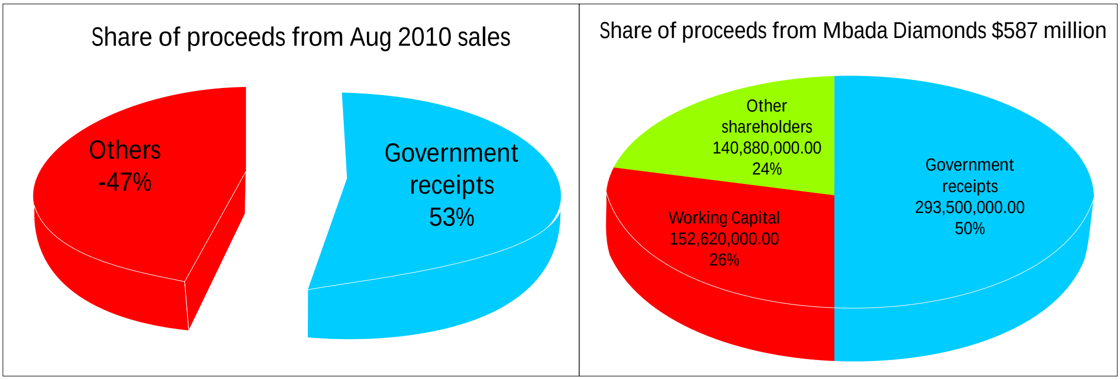
The research, however, compared exports in carats between the KPCS and ZIMSTAT. Despite a general upward trend in terms of exports, data from 2009, 2011 and 2012 clearly shows that there are variances in the export figures from KPCSC and ZIMSTAT with KPCS data appearing significantly higher. The reliability of data is diminished by conflicting information on diamond exports from different sources. This is shown in Fig 9 below:

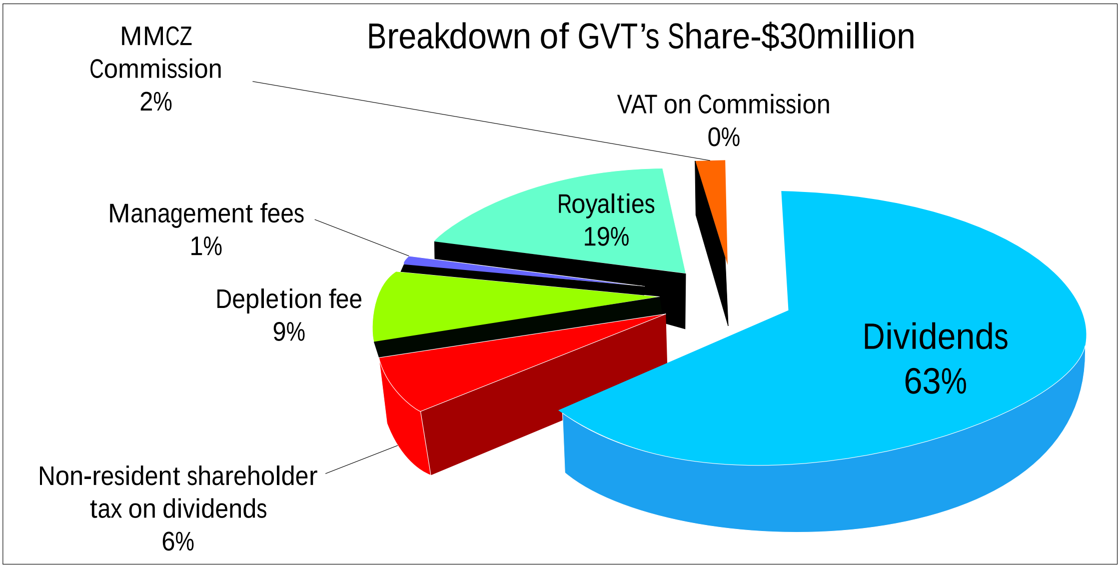
Fig. 9



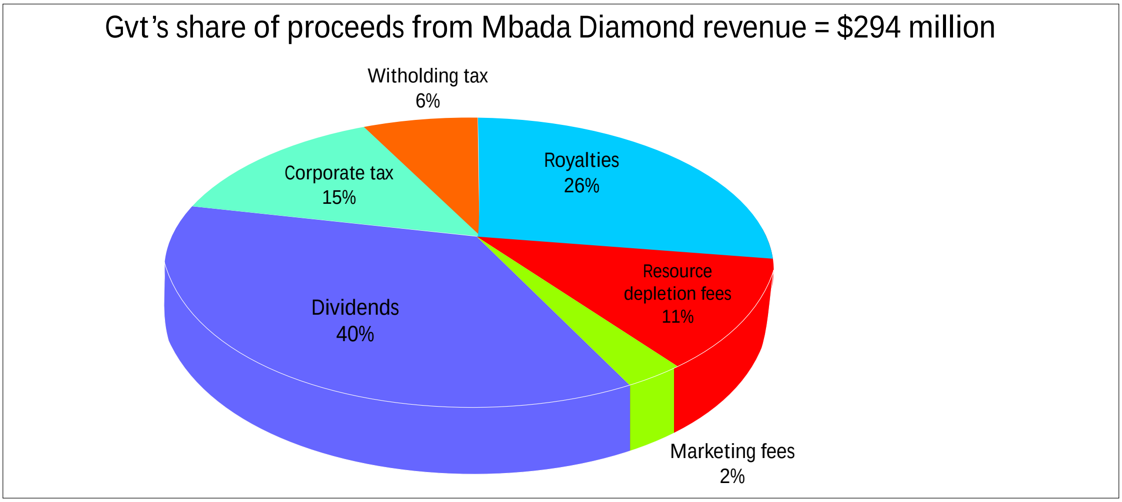
The pie charts in Fig. 10 gives insight into how much the government may have received from total diamond sales to date. The chart shows that the government received slightly over 50% from the share of proceeds of diamond sales in 2010 and it is likely that this has been the trend to date. This share of receipts from the diamond sales was substantiated by the chairman of Mbada Diamonds, Robert Mhlanga, during his representation to the Parliament of Zimbabwe in May 2013.

Fig. 10





Source: 2011 National Budget Statement



Source: R. Mhlanga (Marange Resources Chair) Report to Parliament - May 2013

ANALYSIS

Overall Findings (Diamond Mining Contribution to Treasury)

What is evident from the research findings is that there has been a clear mismatch between the revenues expected from diamond mining companies and those that are actually realised. From 2010 to 2013 the realised revenues fell far short of the targeted revenues with respect to non tax revenue. There was late remittance of diamond revenue from the third diamond sale of 2010. In 2012 there was a US$555 million shortfall between the targeted revenue and that which was actually realised by Treasury. Having realised the continued shortfalls between expected and realised revenue, Treasury, with advice from the IMF as part of the SMP, revised down the expected revenue from diamonds from the targeted US$600 million of 2012 to a more moderate or realistic target of US$61 million for 2013. However, this target was not met as diamond mining companies failed to remit any dividends to government in 2013.

It is also important to note that there has been a steady decrease in terms of non tax revenue contribution by mining companies from 2010 to 2013. In 2010, the mining companies contributed US$174 million; in 2011, the figure dropped to US$80 625 003.88; in 2012, the figure dropped further to US$45 million while in 2013, the figure was nil or US$0 million. This is notwithstanding a x5 increase in production from 2009 to 2013. In 2009, diamond production stood at less than 2million carats. In 2012, diamond production had increased to 10 million carats. The increase in diamond mining production and the number of companies operating in Marange was, regrettably, not matched by a corresponding increase in diamond non tax revenue contributions to Treasury.

It is also important to note that there has been general confusion with respect to diamond mining non tax contributions to Treasury. The Report by the Mines and Energy Parliamentary Portfolio Committee Chair, the late Hon. Chindori Chininga, noted that Mbada Diamonds Chair Robert Mhlanga reported to Parliament that the company had paid out $293-million to the Government since it started mining in 2009, including $117-million in 2011-2012. The report points out a discrepancy in the information as the then Minister of Finance, Hon. Tendai Biti had said in his 2013 budget statement that the government had only received $41million in diamond revenues in 2012. Even if one argues that the reported US$117 million by Mbada is inclusive of tax and non tax revenue, it does not explain the discrepancy between the US$45 million received by

Treasury in 2012 and the US$117 million one company is reported as having paid out to Government in the same year. Meanwhile, the ZMDC Chair was quoted in the local press on 12 September stating that the company has contributed US$300 million in dividends and royalties from August 2011 to August 2012.[25] This figure is irreconcilable with the US$45 million that was officially reported as having accrued to government in the form of dividends and royalties.

Challenges

One of the main challenges in conducting the research is difficulty in accessing information. The research team made efforts to obtain information on diamond production, diamond exports and diamond revenues from different sources including MMCZ, ZIMSTAT, the Office of the Comptroller and Auditor-General, the Ministry of Finance, ZIMRA and the Zimbabwe Mining Development Corporation. In most cases, there was massive stonewalling from the public officials in these organisations. In some cases there was a deliberate attempt to frustrate repeated efforts to get information through being moved from one office to the other while in other cases there was no feedback at all. This seriously hamstrung the research objective, and the researchers resorted to piecing together and making inferences from information drawn from third party sources such as the KPCS. In the case of state owned corporations like the ZMDC and the MMCZ, the expectation had been that information such as annual reports would be available online on the organisations' websites. This, regrettably, was not the case. In the absence of audited financial statements and publicly available information, the financial integrity of institutions involved in the diamond industry is called to question.

The information on diamond mining companies' revenues should be made publicly available in a format that clearly disaggregates revenue contributions by revenue head. Such information on platinum mining has previously been publicly presented by the Ministry of Finance (See Fig. 11)in National Budget Statements. It is expected that the diamond mining companies operating in Marange would also provide such detailed information in terms of their tax contributions and other payments as the government has a significant shareholding in the same.

[25] Maodza,T. (2012) 'Zimbabwe: ZMDC Pays U.S.$ 300 Million Dividend to Govt'. 13 September HTTP://ALLAFRICA.COM/STORIES/201209130554.HTML

Fig.11

Zimplats Contribution to the Fiscus: 2009 to 2012 (US$)

Beneficiary	12 months to 30 June 2009	12 months to 30 June 2010	12 months to 30 June 2011	12 months to 30 June 2012	Total
Corporate Tax		23,457,419	4,188,637	8,995,959	36,642,016
PAYE	5,797,204	9,695,592	12,495,945	14,760,247	42,748,989
Withholding tax	182,650	1,342,939	1,531,218	3,084,658	6,141,464
MMCZ Commission	981,149	3,360,427	4,381,288	4,230,192	12,953,056
Royalties	2,188,728	8,967,239	16,132,209	51,280,498	78,568,674
Custom duties	3,874,688	6,653,162	9,417,480	8,775,648	28,720,978

Source: 2013 National Budget Statement page 185

Reports by New Dawn Mining Corporation on all payments made to the government also represent an example that diamond mining companies can follow in terms of reporting.

New Dawn payments to Zimbabwean government and its agencies in the periods ended March 31, 2013 and 2012; and the year ended September 30, 2012

	Three months ended March 31		Six months ended March 31		Year ended September 30, 2012
	2013	2012	2013	2012	2012
Gross revenue	$ 14,986,200	$ 14,857,212	$ 31,598,676	$ 30,297,978	$ 61,947,433
Taxes and levies					
Corporate taxes	$ -	$ 187,315	$ -	$ 187,315	$ 187,315
Royaltues	1,051,632	979,360	2,197,592	1,675,134	3,898,969
Duty	148,708	184,915	293,855	645,225	1,009,523
Licenses and levies	147,214	108,578	194,226	149,259	267,638
Rural electrification levy	105,133	141,299	253,983	244,807	487,507

Source: New Dawn Mining Corporation Management's Discussion and Analysis for the three and six months ended March 31, 2013 and 2012

Difficulties in accessing information were important insofar as they showed how difficult it is for the general public to access information on diamond mining revenues. The cloak of secrecy around the Marange diamond revenues also brings into question the issue of tax evasion. The beneficial ownership of the companies involved is not known while it has been alleged that some of the companies involved are allegedly registered in tax havens such as Mauritius and the British Virgin Islands. With so little information in the public domain or willingly provided, it is possible that greater scrutiny of the tax data may expose tax evasion.

Failure to access information meant that it was extremely difficult to map revenue data from 2009-2012. The question of the value of contributions to national Treasury from diamond revenues remains unclearly answered. From the research findings, it can be clearly ascertained that there has been a marked increase in diamond production and diamond exports. While there is data on production and exports, there is scant information on the revenues that have found their way to Treasury in the period under review. Collation of data obtained from the National Budget Statements shows that approximately US$300 million has been remitted to Treasury in the form of dividends and royalties. However, this conflicts with reports by the company representatives of ZMDC and Mbada Diamonds which point to contributions in excess of US$600 million without adding the contributions by other companies including DMC, Anjin and Marange Resources. If anything, this research makes the case for instituting transparency and accountability in the diamond mining sector. The approximate contribution of US$300 million as gleaned from National Budget Statements also stands at odds with the exponential increase in diamond production between 2009 and 2013.

An important issue to highlight is the political exposure of diamond mining industry in Zimbabwe. Individuals with a known political affiliation and active involvement have an imprint all over the industry. Ambassador Chris Mutsvangwa was chairman of the MMCZ while Godwills Masimirembwa was chairman of ZMDC. Both stepped down to contest in the 31 July 2013 general elections under ZANU PF tickets. Colonel Tshinga Dube was chairperson of 100% government owned Marange Resources while Supa Mandiwanzira was a board member at the MMCZ. Both also stepped down from their positions to contest the 31 July 2013 under ZANU PF tickets.[26] There is nothing inherently wrong or bad in having officials

[26] Muronzi, C., and Gagare, O. (2013) 'Sweeping Board Changes Loom at ZMDC' *The Standard* 11 October http://www.theindependent.co.zw/2013/10/11/sweeping-board-changes-loom-zmdc/

presiding over public institutions resigning to take political office. However, this may result in mistrust and raise questions on the potential of the institutions being compromised politically.

While outside the remit of the research, an important issue that came under consideration was the use of diamond revenue. It was noted that the contribution of diamond revenues to the national fiscus is as important as the prioritisation of expenditure from the same. While there has been general consensus around the fact that diamond revenues to the national fiscus have been depressed or have not met expectations there are questions over whether accrued revenue was deployed to the most critical sectors in terms of need, for example, health and education. The use of diamond revenues to finance the building of a defence college in 2011 may not have been prudent at a time when sectors such as health were in the "intensive care". The defence college was constructed at a cost of US$98 million through a loan payable from the proceeds of Marange diamonds. It may be construed that this expenditure was influenced by the involvement of the military officers in the diamond mining companies.[27]

Diamond revenue represents natural capital depletion and, therefore, its expenditure should be judicious. Diamond rich countries like Botswana have managed to use the sustainable budget index practices extremely well with diamond revenue roughly matching expenditure on human and capital development.[28] Whilst Botswana's case is ideal, it is a distant dream for Zimbabwe because of lack of fiscal space and huge public service wage bill that crowds out capital and social expenditures. However, the 2012 national budget must be recommended for earmarking 50% of expected diamond revenues to capital projects and the rest to recurrent expenditure. Unfortunately, this could not be implemented due to fiscal stress caused by lack of remittance of diamond dividends.

[27] Global Witness, 2012, Diamonds: *A Good Deal for Zimbabwe, Who Controls Revenues From Marange Diamonds (A Case Study of Mbada and Anjin companies*
http://www.globalwitness.org/sites/default/files/library/A%20GOOD%20DEAL%20FOR%20ZIMBABWE_0.pdf

[28] Lange, G., and Wright, M., 2002, Sustainable Development in Mineral Economies: The Example of Botswana
http://www.commdev.org/sustainable-development-mineral-economies-example-botswana

CONCLUSION AND RECOMMENDATIONS

It was noted that the diamond mining industry, particularly operations in Marange have resulted in significantly higher production of diamonds in Zimbabwe. The research also established that there have been opportunities for increased contributions to the Treasury, although this is largely inferred from the little available data or information. There is evidence that there has been an increase in diamond exports and available data shows that the State should have gotten at least 50% share of the diamond sale proceeds. It is clear that this increasing share of proceeds has not accrued to national Treasury (over time; 2009-2012) in tandem with the increase in exports. It was extremely difficult to pin down the exact figures and percentage increases due to difficulties in obtaining data that is available but held by institutions such as ZMDC and the MMCZ. The absence of minutiae revenue details inexorably heightens public expectations. The general public perception is that the companies mining diamonds in Marange are prejudicing the State of billions of dollars each year and are only benefiting a phalanx of political and economic elites. These expectations can only be managed with increased public access to information pertaining to the operations of Marange diamond mining companies and the revenues accruing to government. Managing expectations will be key in the short to long term as diamond mining and mining in general continues to evolve into being the lynchpin of the economy upon which all eyes will be set.

Recommendations

There is a need for the government to adopt and implement the Extractive industries Transparency Initiative (EITI). There is acknowledgement at the highest level or offices within government that there is opacity in the mining sector. The EITI is a global coalition of governments, companies and civil society working together to improve openness and accountable management of revenues from natural resources. The EITI ensures full disclosure of taxes and or other payments made by mining companies and are aimed at reconciling payments made by mining companies and those receipted by governments. The government had taken tentative steps to implement a locally conceived variant of the EITI, the Zimbabwe Mineral Revenue Transparency Initiative (ZMRTI) but the momentum to implement this has since stalled. If confusion, public mistrust and finger-pointing over Marange diamonds revenues is to stop, there is need to implement the EITI as it will ensure full disclosure.

In relation to the above, there is a need to ensure that laws and policies governing the mining sector fully embody the principles of transparency and accountability. At the time of compiling this report there have been intimations that the government is looking at reforming or coming up with new laws and policies including the Companies Act, the Mines and Minerals Act, the Minerals Policy and the Income Tax Act among a host of other pieces of legislation to be reviewed. The new constitution has provisions for access to information and there are indications that current restrictive Access to Information laws (Access to Information and Protection of Privacy Act) will be reformed to bring them in alignment with the new constitution. Specifically, the new constitution states that *'...an Act of Parliament must provide for the negotiation and performance of State contracts including joint venture contracts, contracts on construction and operation of infrastructure and facilities; and mineral rights concessions.'* In bringing the mining related pieces of legislation in line with the new constitution there is a need to ensure that these laws have clear provisions for transparency and accountability.

Potential cases of corruption and tax evasion should be dealt with without delay to instil public confidence in public institutions. The late Hon. Chindori Chininga, as then Chairperson of the Parliamentary Portfolio Committee of Mines and Energy released a report on diamond mining in Marange in June 2013. The report showed serious discrepancies between what the diamond mining companies reported to have paid to Treasury and what the Treasury itself received.[29] Yet, despite the seriousness of allegations in the report, the report has not been followed up in terms of setting in motion investigations into its details.

To ensure an increase in diamond revenue contribution to the national fiscus, there is a need to implement the Cabinet resolution prescribing 100% ownership of alluvial diamond mining operations. On December 7, 2010, Zimbabwe's Cabinet announced a unanimous agreement that the country should be the owner of all of the alluvial diamond mining businesses within its borders.[30] However, this has not been enforced as the government has continued to engage investors to explore and mine Marange diamonds even after the adoption of the resolution. The initial capital investment required for alluvial diamond mining is relatively not high and the risk involved cannot be equated to risk involved in under-ground mining.

[29] FIRST REPORT OF THE PORTFOLIO COMMITTEE ON MINES AND ENERGY ON DIAMOND MINING(with special reference to Marange Diamond Fields) 2009-2013 Presented to Parliament June 2013, Fifth Session, Seventh Parliament of Zimbabwe

[30] Johnson, C., 2010, Zimbabwe: Cabinet Action on Ownership of Alluvial Diamonds, The Library of Congress, Accessed on 13 October 2013 and Available here http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205402418_text

There is also a need to revise the Marange diamond mining contracts. There is need to determine how the 50% shareholding with the mining companies was arrived at. The diamond mining corporations operating in Marange are JVs in which the government has 50% and the private investor holds 50%. However, it is difficult to determine what motivated for the government to come up or agree to the 50% ownership. The argument has been that the private investors have contributed start-up capital and, therefore, are entitled to equity. Thus, there is a need for economic rationale in determining the value of equity instead of thumb sucking. For instance other shareholders of Mbada diamonds got dividends amounting to US$140.8 million from the first 3 years of operations having initially invested US$100 million.

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