

ZIMBABWE ENVIRONMENTAL LAW ASSOCIATION (ZELA)

Using the Law to Protect and Conserve the Environment



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PRESS RELEASE

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LACK OF TRANSPARENCY AND ACCOUNTABILITY EVIDENT IN CHIADZWA DIAMOND MINING ARRANGEMENTS

The Zimbabwe Environmental Law Association (ZELA) wishes to express deep concern on the lack of seriousness by mining companies to fully comply with conditions set by the Kimberly Process (KP) before Zimbabwe starts trading Chiadzwa diamonds. ZELA's concerns arise from revelations by the media and testimony of officials from two government owned companies, Zimbabwe Mining Development Company (ZMDC) and Minerals Marketing Corporation of Zimbabwe (MMCZ) when they appeared before the Parliamentary Portfolio Committee on Mines and Energy on the 1st and 8th of February 2010 to give oral evidence on the operations of ZMDC and its partners in Chiadzwa. In August 2009 ZMDC entered into partnership with two companies registered in South Africa and Mauritius to form Mbada Mining (Pvt) and Canadile Miners (Pvt) and were granted diamond mining contracts by government. ZMDC holds 50% shares in each company on behalf of government.

Although ZELA commends the Parliamentary Committee on Mines and Energy for playing an oversight role over government policy implementation by competently interrogating and calling ZMDC and MMCZ officials to account for their actions, we remain concerned about the irregularities that were revealed which clearly show lack of transparency and accountability in the management and exploitation of the diamonds. Firstly, Mbada Mining (Pvt) unilaterally attempted to auction 300 000 carats of diamonds in January 2010. Although the company aborted the sale, if it had gone ahead this was going to be in clear contravention of a Kimberly Process (KP) requirement that before the country starts trading diamonds, a monitor appointed by KP should make an assessment of compliance with conditions imposed by the KP in Namibia in November 2009. The imposition of conditions was a result of concerns on the possible use of diamond revenues to contribute to conflicts and human rights violations. No such assessment was done prior to the proposed auction. Secondly, the foreign partner holding 50% in Mbada called Grandwell Holdings does not have any previous experience in diamond mining. In fact it is involved in waste reclamation and recycling in South Africa. The decision to give it a contract was based on its financial position and security systems. This illustrates a flawed selection process of investors given the technical expertise required in diamond mining and the need to comply with the KP systems.

Thirdly, the appointment of Board members to represent ZMDC in Mbada and Canadile were done by the Ministry of Mines and it appears that no thorough background check was done before the members were appointed to represent government interests in the Board. Fourthly, contrary to practice, MMCZ which is responsible for marketing minerals is not privy to the mining contracts entered into between the two mining companies and the Ministry of Mines. Further, the mining contracts between government and the investors have not been made public to ensure that the people of Zimbabwe know the value of diamonds and revenue to be generated as well as how it would be distributed. Yet, access to information is a tool to promote transparency and accountability which in essence lead to democracy and good governance which are key elements for economic growth and sustainable development. Fifth, it also emerged that apart from

promote transparency and accountability which in essence lead to democracy and good governance which are key elements for economic growth and sustainable development. Fifth, it also emerged that apart from paying mining royalties, ZMDC has for the past years 20 not declared any dividends to government from its mining operations. This means all the mining ventures by the government owned company have not been significantly contributing to the national fiscus and benefiting the people of Zimbabwe.

Additionally, Mbada and Canadile started mining diamonds without complying with national laws such as the Environmental Management Act (Chapter 20:27) which requires mining companies to carry out Environmental Impact Assessments (EIA) before commencing operations. EIAs are a very important planning tool which reveals the potential environmental, economic, social and cultural impacts of operations and possible mitigation measures. However, the companies only complied with this legal requirement after the Environmental Management Agency raised concern. It is incredible that government allowed the companies to commence operations before they had met the requirements of the laws of this country.

Another concern is the limited information being given by the government and private companies to the people of Chiadzwa and the general public about the proposed relocation of 4000 families from the area and on the nature and scope of compensation as well as the proposed timeframe. This has resulted in great anxiety within the community and made planning impossible. Sadly, the judiciary has not done any better in protecting the rights of the people of Chiadzwa against imminent relocation and the issue of compensation. An urgent Chamber application by the community was dismissed by the High Court in December 2009. The people of Chiadzwa remain trapped in poverty as roads, clinics, transport services and schools are in a poor state while some individuals and companies may be benefiting from the natural resources in the area.

Given the above situation, ZELA strongly believes and recommends that there is need to start promoting transparency and accountability in the diamond mining sector and other "high value" natural resources extraction ventures. Transparency and good governance are essential elements for accountability and effective management of natural resources for poverty reduction, economic growth and sustainable development. There is need to promote access to information, open debate and dialogue on natural resources use to ensure that resources are used to develop the country and not just to benefit a few people. Access to information is a vital tool to prevent corruption and conflicts. ZELA suggests that government and private companies should be obliged by law to disclose, publish and subject to public scrutiny all mining contracts and agreements. People should access information on the revenue generated, its distribution, the names and ownership structures of private companies given mining contracts.

We also recommend that Zimbabwe should join the Extractive Industry Transparency Initiative (EITI) which other countries are joining to ensure that revenue generated from mineral resources is known by the public. This is done by making mining contracts public and making mining companies accountable. The initiative seeks to promote accountability and transparency in the exploitation of natural resources. Alternatively, the work of Parliamentary Portfolio Committees should be strengthened and respected by Parliament or the Executive so that they can effectively discuss extractive sector contracts and agreements as a mechanism to ensure transparency and accountability. Further, Parliamentary Committees should continue to use their powers to request government officials and private companies to account for their actions by requesting to see all natural resources exploitation contracts signed with government. Revenue from natural resources like diamonds risks being misappropriated and spent on projects that do not change people's livelihoods and economic recovery if proper measures are not adopted that enhance transparency and accountability by private, government companies and officials. Government should also respect its own laws and not just enforce or ignore them when it is convenient or inconvenient to do so. The essence of the rule of law is that laws should be applied equally to all citizens.

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