



# **ANNEX 8 ILLICIT DIAMOND TRADE VULNERABILITIES**

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# INTRODUCTION



- Diamond trade is a complex issue. It generally involves two types:
  - Rough diamond trade
  - Polished diamond trade
- Rough diamond trade is regulated under the Kimberley Process Certification Scheme (KPCS), while polished diamond trade is not.
- The Kimberley Process (KP) is an international initiative whose goal is to prevent the trade of “conflict diamonds” while helping to protect legitimate trade, through monitoring the production, exportation, and importation of rough diamonds throughout the world.
- The KP is a three pillars initiative comprising Governments (Participants), the Diamond Industry (WDC) and the Civil Society Coalition (CSC). It has a set of requirements each Participant should comply with.



- The Section IV(a) of the KPCS Core Document states the following: “*Each Participant should establish a system of internal controls designed to eliminate the presence of conflict diamonds from shipments of rough diamonds imported into and exported from its territory*”.
- Also, according to the Section II (a) of the same document, “*each Participant should ensure that a Kimberley certificate (hereafter referred to as the Certificate) accompanies each shipment of rough diamond on export*”.

Vulnerabilities in diamond trade are generally depending on the type of Participants, though other vulnerabilities can be detected at the international level.



# KP PARTICIPANTS



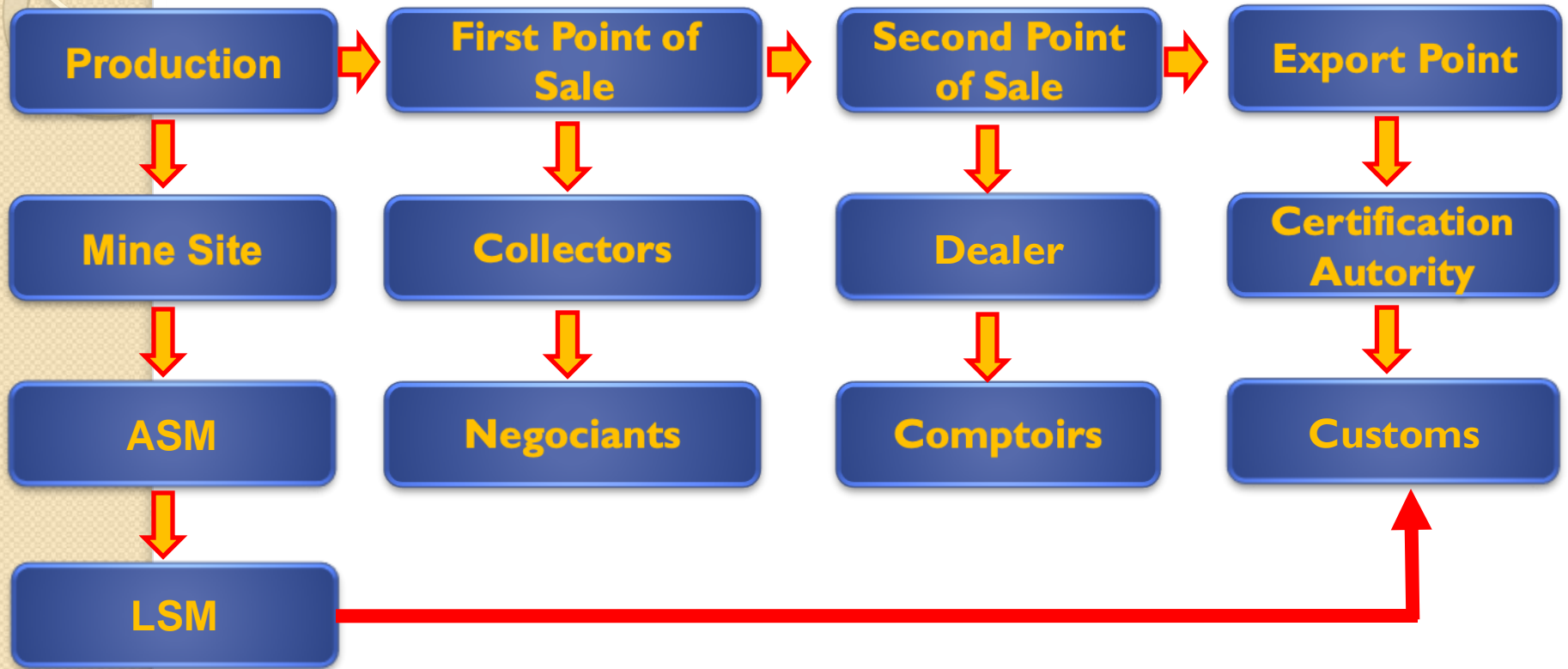
- To date the KP comprises 85 countries representing 54 Participants (EU as a Participant with 28 countries). Among Participants, there are “Producing countries” and “trading countries”.
- Producing Countries:
  - Artisanal and Small Scale Mining (ASM)
  - Large Scale Mining (LSM)
- Trading Countries:
  - Trading Centers
  - Cutting and polishing facilities
  - Manufacturing facilities (Jewelry)
- It implies that Producing countries are more inclined to export while trading countries are meant to be importing. However, importing countries are also very much involved in re-exporting transactions.



# DIAMOND TRADE SUPPLY CHAIN



# PHASE I : EXPORT





# PHASE II : IMPORT





# VULNERABILITIES





Within the KP, Peer Reviews have become an important instrument in discovering vulnerabilities in individual countries systems with a main object to assist the country under review to find ways to strengthen their domestic KP system. Generally speaking, **vulnerabilities are of various types depending on the kind of transactions carried by KP Participants**. That is why, I will discuss vulnerabilities in respect with **producing countries, trading countries**, and I will tackle the **issue of smuggling as a transnational issue involving upstream and downstream operators**.

### Producing countries

- **Illicit Mining:** the KP requires that mining operations be subject to licensing but this has not been possible in spite of efforts in demarcating artisanal mining zones. Instead, illicit mining activities are quite common in countries with ASM, including regular cases of invasion of industrial concessions. Access to land is still a big challenge for artisanal miners.
- **Capturing real production:** though full records of production are required by the KP, the self declaring system practiced in most countries cannot ensure accurate records of production. Since production statistics are not appropriately recorded, the figures presented as the world production can be questionable. With the new AD on disaggregation of ASM and LSM figures, the KP can provide a response to this matter
- **Identification and registration of mining operators, sellers and exporters:** it is still a great challenge to fulfill this task;



- **Illicit sales and illicit buying:** it happens at two levels. On one hand, not all sellers and buyers are licensed as said earlier. On the other hand, even when they are licensed, they hardly keep records for all their purchases.
- **Pricing/valuation:** due to poor economic environment of artisanal miners, most of their winnings are sometimes sold at lower price. This raises the issue of **beneficiation** largely discussed in this context.
- **Tax evasion:** It happens that due to **higher taxation**, nice stones are not declared. This was the case of the well-known case of specials in Sierra Leone that were taxed 15%, and soon after there were no more specials in the legal system.
- **Use of Cash:** Most transactions in countries with ASM, if not all use cash. Banks are used for payment of taxes at the export point. In rural areas where diamond buying houses are established, buyers use parallel institutions on the ground that there is problem of liquidity and delay using official banking system.
- **Fake KP certificates:** more cases of fake KP certificate are quite registered. Most people trade by internet and only trust in view of any KPC without seeing the goods. They are then cheated, if they don't request for confirmation from the authorized persons.



## Trading countries

- **Less/no control of the Government over the diamond industry:** relying much upon the principle of industry self-regulation, and system of warranties, the government exert less control in terms of spot checks, verification of rough diamond trading documentation and periodic stock statements, and therefore the KP authorities cannot track the movement of rough within these countries;
- **Registration of diamond traders :** some countries do not register correctly their diamond traders. On this ground, diamond can be detained by anybody within the country and it can move from one hand to another, as far as it is not exported to request for a KP certificate;
- **Origin of re-exported diamonds:** since conclusive evidences do not always include the copies and references of origin certificates, the so called “mixed/unknown origin” system cannot ensure traceability;
- **No control over the cutting and polishing facilities as recommended by the Brussels Declaration:** not quite sure if diamond that enters these facilities are sourced legally



## Smuggling

Smuggling is organized in network from producing countries to trading countries. It involves both upstream and downstream dimensions. It holds to various reasons stemming from the nature of the product to the lack of robust systems of internal controls by KP Participants.

- **Porosity of borders:** most African diamond producing countries are facing this problem;
- **No cooperation among neighboring countries law enforcement agencies:** normally law enforcement agencies should share information on cases of convicted persons that should not be accepted in neighboring countries. Cases of suspicious persons involved in diamond trade should be advertised;
- **Seizures:** indeed some cases of seizures are reported, but most national legislations do not facilitate cooperation and information sharing as they do not reveal the identity of the persons involved in such cases, nor do they allow the victim state to recover the smuggled goods. The issue is under discussion within the KP and a sub-group under the supervision of VVGAAP has been set up
- **Limited awareness of law enforcement persons:** most of these persons have little knowledge of diamond trade.



- **Law enforcement persons not sufficiently trained in diamond business:** most of the law enforcement persons do not have knowledge of diamond nor do they work sufficiently at the enforcement of enacted laws related to the diamond trade;
- **Network business:** by virtue of its nature, diamond business involves networks due to the fact that it easily involves large amounts of money. Most of the financiers cannot afford getting to where diamond originates, therefore, they use networks. That is why it relies upon trust, as no precise price reference is known as it is the case with other minerals. It sometimes works like a casino business, sometimes loosing, sometimes winning.
- **Nature of diamond itself:** diamond possesses characteristics which easily induces people to smuggle it. It is tempting by itself. **Its very high value** pushes people to take some risks, including swallowing it or wrapping it in a condom to squeeze it in the buttocks. **Its low weight/mass and relatively small size** can easily get it dissimulated and go undetected.



## **Conclusion**

To conclude, the KP Participants need robust internal controls systems and credible traceability system that should not only go from mine to export point, but also from import point to cutting and polishing facilities. To do so, Government law enforcement agencies, diamond industry and civil society have a big role to play. Here are perspectives that can inform our discussion:

### **a)Smuggling**

- Capacity of mining brigades/police/customs/Mining Inspectors
- Collaboration between mining authorities and police/customs/border control, diamond industry, civil society, including understanding lines of authority
- Intelligence gathering and dissemination
- Whistle blowing mechanisms
- Harmonizing, issuing, and publicizing penalties



## b) **Licensing**

- Sharing of licensing data within countries and internationally
- Harmonizing of licensing procedures and data, including processes for vetting brokers/dealers, licensing fee levels, in regional dimension, etc.

## c) **Monitoring**

- Increased national and regional reporting (e.g., regional monthly reporting on production/exports)
- Enhanced national efforts to coordinate between national and local offices
- Fake certificate responses
- Industry collaboration on illicit trade and actors, grading/valuation skills,
- Ensuring control over cutting and polishing factory documentations and reports.



**THANK YOU**