



Policy Review

**The Mining Sector in Central African Republic
with a focus on
Information Collection and Management Systems and Procedures**

**Completed in support of PRADD result 1:
*A system for reliable production and export information for diamonds exists at pilot sites***

FINAL VERSION: April 12, 2007

Introduction

An earlier version of the present policy review based on mining legislation in CAR was completed in preparation for the PRADD Design Validation workshop held at the Hotel Somba, Bangui, Central African Republic on March 21-22, 2007. The original draft policy review relied primarily on documentation collected during a “scoping mission” to CAR conducted in December 2006 in preparation for the PRADD pilot project. The purpose of the earlier draft was twofold: 1) to provide a concise background summary of mining policy history and current issues as a basis for workshop discussions; and 2) to facilitate identification by workshop participants in CAR of constraints and opportunities to improve alluvial diamond chain-of-custody information availability and management by establishing a reliable information system. The ultimate goal of the sessions focusing on mining policy in CAR was to contribute to achievement of result 1 identified in the PRADD pilot project design document: *A system for reliable production and export information for diamonds exists at pilot sites.*¹

Two PowerPoint presentations based on the policy review draft were prepared and delivered at the March workshop in Bangui: one focusing on mining policy history and trends in CAR; and the other attempting to identify opportunities provided in the policies to strengthen information availability and management as it relates to alluvial diamond production and marketing. The presentations sparked lively discussions and afforded the opportunity to enrich the policy analysis through addition of supplementary material. Following plenary discussions, participants divided into small groups to focus on specific sets of questions addressing mining policy implementation, and how implementation practices affect the quality of information systems. These workshop exercises produced opinions, corrections and supplementary information that allowed considerable adjustment of the original policy review. Workshop participants also drew attention to additional legislation – specifically, application decree No. 04.183 of June 15, 2004 – that supplements the mining code enacted on February 1, 2004 (on which much of the draft policy review was based), and that was previously unknown to workshop organizers. The present document has benefited from the constructive group dynamic that reigned at the workshop as it pertains to mining policy in CAR. In particular, workshop participants² contributed significantly to progress toward identification of possible opportunities for strengthening information systems regarding artisanal diamond production and marketing.

Primary sources on which this document is based include³:

- Ordonnance No. 04.001 of February 1, 2004 (the orientation document of the mining code of CAR)
- Décret No. 04.183 of June 15, 2004 (application legislation for Ordonnance No. 04.001)
- The written proceedings of a prominent government-sponsored national workshop held in Bangui in July 2003 to review policy and activities of the mining sector, to determine its general state and to formulate recommendations for improvements (referred to throughout this document as the *Etats Généraux* workshop)
- Reports of NGOs such as Partnership Africa-Canada and Global Witness

¹ A second policy review exercise and workshop will be prepared at a later date to address Result 2: *a process to identify and acknowledge land and property rights holders in target areas has been developed.*

² A list of workshop participants is provided in Annex 1.

³ Additional policy documentation collected in view of completing policy analyses related to the mining sector in CAR, notably land and forest legislation, hold less relevance to this paper's discussion targeting information systems than it will for a later policy review that will focus on property rights.

- A variety of websites including: those of international mining companies active in CAR; the website of the U.S. Department of State; and the websites of news organizations such as the *Economic Intelligence Unit* and *Mbendi Information for Africa*
- Various news articles published in CAR, especially those in the *Collines du Bas-Oubangui* newspaper
- Conversations with USG and GoCAR officials, private stakeholders (including buying and export businesses, collectors, artisans, diggers and private technical support and training specialists) and journalists during the PRADD scoping phase in December 2006.
- Contributions of participants at the PRADD design validation workshop held on March 21-22, 2007 at Hotel Somba, Bangui, CAR

The paper contains three major sections:

- 1) *Mining Policy Background*
- 2) *Current Mining Policy*
- 3) *Diamond Production, Marketing and Export Information Systems: Opportunities Provided by Mining Policies.*

1. Mining Policy Background

An Ongoing Period of Reform

The current government of CAR established reform of the mining sector as a high priority soon after coming to power on March 15, 2003. The priority of the sector and its importance in the context of development objectives is not surprising given the economic importance of diamond production and trade in CAR. Diamonds, after timber products, are the leading export of the CAR and, along with gold, the most valuable of the products of the mining sector. The government's emphasis on the sector is also motivated by recognition of widespread fraud in diamond production and marketing, and the conclusion that the sector has severely underperformed in relation to its potential to contribute to national development. Diamonds⁴ contribute 4-7 percent of CAR's GDP, and approximately 40% of the country's exports.⁵ But it is widely felt that the sector could contribute significantly more to national development than these statistics indicate if policies can be formulated and effectively implemented to control fraud and rationalize production and marketing.

The initiative to improve mining policies and their implementation is ongoing in CAR as evidenced by the apparent commitment of the Minister of Mines, Energy and Hydraulics, and sponsorship by the World Bank of a soon-to-be launched and comprehensive study of all aspects of the mining sector including policy and institutions. Although ongoing, the watershed year of the reform process was 2003. Some important events that launched the reform process include:

- suspension of all mining permits in April 2003 in order to allow the government to verify that permit holders were up to date with their taxes and that their permits were in order⁶ (issuance of permits resumed early in 2004);
- CAR membership in the Kimberley Process from July 2003;

⁴ Currently and historically, all diamond production in CAR is alluvial.

⁵ The *Etats Généraux* workshop proceedings document repeatedly notes that the contribution of diamonds to GDP is about 4%. The estimate of 7% is from the *Economist Intelligence Unit* report entitled, Central African Republic: Mining, August 18, 2006; the EIU reports that diamonds composed 42% of exports from CAR in 2004.

⁶ EIU, August 18, 2006.

- organization of a substantial and high visibility national workshop to exhaustively review and examine mining policies and issues and to formulate recommendations; and
- adoption of a reformulated mining code in February 2004.

It is interesting to note that the reform process, initiated in 2003 and precipitated by recognition of the disappointing performance and prevalence of fraud characteristic in the mining sector in CAR, followed two decades of seemingly progressive and enlightened policy formulation and adoption. The mining policy climate in 2003 was by no means free of problems and inconsistencies, and it would be imprudent and misguided to exaggerate the point that the general policy trend during the previous two decades was somewhat enlightened. However, the mining policy trend since 1980 appears to have favored a rational, socially progressive and well-regulated mining sector. The co-existence of a generally favorable, if imperfect, policy environment with the strikingly negative performance of the sector could hold lessons for future management of the sector. A general conclusion is that policy implementation is at least as important as policy formulation. Many conditions need to be satisfied in order for policies to be effectively implemented.

We now turn to a brief historical outline of the mining sector policy that preceded and influenced the current period of policy reforms.

History of Mining Sector Policy in CAR

CAR had no comprehensive mining legislation throughout the colonial period. Prior to independence in 1960, mining concessions were granted by administrators on an ad hoc basis and by decree. The mining sector prior to independence was dominated by industrial companies based in France and remained largely off-limits to artisanal miners.

Following independence, a mining code was formulated and adopted in 1961 that liberalized the sector by allowing local populations to mine for alluvial diamonds. The response was immediate and enthusiastic: production increased each year to reach well over 600,000 carats by 1968. At the same time that artisanal mining in CAR was taking off, industrial production of diamonds fell steadily to very low levels by 1970, and disappeared altogether in 1990. A slow and often interrupted return to industrial production has been attempting to take root since 1993. Regarding overall production volumes of diamonds in the CAR, following the record production of 1968 volumes began to decline. Only recently have national production levels regained volumes approaching 500,000 carats/year.

Mining legislation enacted in 1979 replaced the 1961 code. The “new” mining code was repeatedly modified in subsequent years, including substantial additions and revisions in 1983. By 2003 the mining code of the CAR was described by participants at the *Etats Généraux* workshop as a hodge-podge of regulations full of inconsistencies. In addition, the code was criticized as silent on the question of environmental protection, and for lacking provisions that might encourage private investment (*Etats Généraux*, p.109). It was said that in many cases the code even lacked application decrees necessary for implementation of its policy prescriptions.

Nevertheless, at the risk of unintentionally minimizing the ill effects of the flaws identified in the mining policies in 2003, much of the policy trend since 1979 could be described as both rational and progressive: rational in that the policies sought to establish a regulated and productive sector that is actively managed by the government for the benefit of private actors; and progressive in that policies moved from a traditional emphasis on industrial production toward a more socially-

enlightened emphasis on improving the welfare of the rural poor. Highlights of the policies adopted during the two final decades of the twentieth century follow.

- Promotion of cooperatives: Although mining cooperatives had been introduced in 1961, beginning in 1980 policies were adopted to more actively support cooperatives. For example, cooperatives became the targeted unit for training programs; policies were introduced to facilitate cooperative purchase of tools and materials; and attempts were made to increase the negotiation position of artisanal miners vis-à-vis collectors (*Etats Généraux*, p.80).
- General support was provided for the artisanal mining sector. These include: establishment of a special fund for promotion of mining (*Fonds de promotion minière*) in 1988 (later rechristened the *Compte d'affectation spécial diamant et or – CASDOR*); unveiling of a program for savings and loans cooperatives *Coopératives d'Epargne et de Crédit – COOPEC*) targeting the mining sector; implementation of the PASMA project (*Projet d'assistance au secteur minier artisanal*) in 1995; and creation of an international diamond *Bourse* in 1995 with the explicit intention of facilitating financing available of the artisanal diamond producing sector.
- Additional reforms adopted in the early-1980s to support the diamond industry aimed to:
 - o facilitate provision of services to diamond producers;
 - o motivate export of diamonds from CAR and not from neighboring countries;
 - o structure and monitor the diamond and gold mining sector and to secure production and trade activities within a transparent chain of custody overseen by regulatory authorities;
 - o ensure that the sector contributed to government revenues.
- In order to provide research support to miners, the government established the *Office de Recherche Géologique et Minière* (ORGM) in 1981.
- The Office for Evaluation and Control of Diamonds and Gold (*Bureau d'Evaluation et du Contrôle de Diamants et d'Or – BECDOR*) was created in 1982 to control export of diamonds and to assure recuperation of taxes based on professional valuations.
- A special police force, the *Brigade Minière*, was created in 1983 to enforce mining regulations and control the incidence of fraud.
- A measure aimed at reducing clandestine diversion of diamonds from CAR toward export from neighboring countries was reduction of the export tax in 1984 from 20 to 6 percent.

In spite of the above noted apparently positive policy developments, the tone of the *Etats Généraux* workshop was one of deepening crisis. Many of the problem themes discussed were exactly those that had been ostensibly addressed through the enlightened policies enacted during the previous two decades. Major issues identified during the *Etats Généraux* discussions included:

- Information of all varieties, including production, trade and export statistics and databases, records regarding artisanal miners, collectors and their activities, and more generally, the mining sector, were inadequate or non-existent
- Diamond purchases are often unaccompanied by transactions records as specified by law
- Production and purchasing records were routinely falsified
- Few or no training opportunities in diamond valuation were available to artisanal miners, cooperative members and collectors
- The fund for promotion of artisanal activities – CASDOR – was mismanaged and ineffective
- Diamond marketing was dominated by non-nationals of the CAR
- The experts of BECDOR were inadequately trained to assure their responsibilities

- The independent valuation system, featuring Independent Diamond Valuers (IDV), was flawed and had not lived up to expectations
- Local mining communities did not receive the public revenues specified in current policies
- There was confusion over responsibility for management of the *Brigade Minière*, jointly managed by the ministries of Mines, Interior and Defense
- Buying and export businesses did not honor the terms of reference applicable to their operations, and were not effectively monitored by state agencies
- ORGM (created to conduct geological research) was not functional
- Fraud and diamond smuggling was pervasive in alluvial diamond production and trade

Although the *Etats Généraux* workshop was held in July 2003, many of these observations have been reconfirmed more recently in a variety of news reports and discussions with CAR government officials and diamond industry actors. Most of the issues appear to remain relevant today.

In the next section we present current mining policy as represented by the Mining Code that was formulated in the wake of the *Etats Généraux* workshop and enacted February 1, 2004.

2. Current Mining Policy

Only certified and registered actors may participate in diamond production and marketing

The mining code (Ordonnance 04.001) of the Central African Republic is clear and unambiguous in that all legal transactions involving diamonds can only take place between certified and registered stakeholders (article 96). A list of these stakeholders defines the major links of the alluvial diamond chain of custody:

- Certified artisanal miners
- Members of certified cooperatives
- Registered diamond collectors
- Registered buying and export businesses

In addition to the chain of custody actors noted above, registered transactions facilitators (*démarcheurs* and *coxeurs*) may play a role in connecting sellers such as artisanal miners and collectors to export businesses (article 105). This regulated chain of custody is reminiscent of the Kimberley Process Certification Scheme in that certified (or member) actors (or countries) are permitted to trade diamonds only among themselves.

The mining code includes provisions that encourage nationals of the CAR to assume the role of diamond collectors by making it more difficult for non-nationals to become certified (article 100). These provisions include residence requirements and obligations for specified capital investments. Similar clauses in the code attempt to regulate buying and export houses such that CAR nationals and the government benefit in a fair way from the export of diamonds (article 103). At the same time, the code seeks to attract international investment in diamond mining operations by offering advantageous tax and import duty conditions to investing companies (articles 90-93).

Enforcement

Fines and jail terms for infractions of mining code regulations are also defined in the code. Enforcement of the rules is the responsibility of a specialized agency – *la Brigade Minière* –

composed of members of the National Police and *Gendarmerie* and assigned to uphold the provisions of the mining code. The *Brigade Minière* is not a term cited by the current mining code, although the principle of enlisting agents from the National Police and the *Gendarmerie* is upheld in article 134. The intention of the Ministry of Mines, Energy and Hydraulics is to create a specially trained unit “mining police” that is entirely under control of the ministry. Article 128 supports this eventuality, and articles 127-131 collectively uphold the right of the ministry to exercise a policing of mines. In an effort to minimize conflict of interest issues that might arise at the level of a mines policing force, articles 132-133 forbid any government official, including police, gendarmerie and military, to hold a mining license or permit. Private guards may be employed by permit and license holders, presumably industrial mining companies. Such guards are referred to in the mining code as *gardes miniers* (article 135).

Promotion of artisanal miners and cooperatives

The mining code promotes artisanal miners in general, and artisanal mining cooperatives in particular. Such promotion is in part implemented through establishment of an agency within the General Direction of Mines specifically assigned to provide support for mining production (see DAPM below). The code also encourages the organization of miners into cooperatives and gives cooperatives advantages such as the right to export directly (i.e., without selling to a buying and export house – article 126). A national union of mining cooperatives – the UNCMCA – was established in October 2005 with government support. As many as 68 mining cooperatives have been formed and are members of UNCMCA.

Mining Administration

The *Direction Générale des Mines* (DGM) is structured to effectively implement the policies of the mining code. The DGM includes 4 major *directions*:

- Programming and Research (DPER), responsible for geological studies and research, maintaining a database of mining permits and authorizations, and mining cartography
- Marketing, Industry and Mining Dossiers (DCIFM), responsible for regulation and monitoring of all market transactions involving diamonds, including valuation of diamonds prior to export (BECDOR); responsible for maintaining registration records of industrial mining companies, artisanal miners and mining cooperatives, diamond collectors, and buying and export businesses.
- Support for Mining Production (DAPM), provides support to artisanal mining cooperatives; coordinates technical and material assistance; monitors, regulates and evaluates investments; provides training to artisanal miners; and protects the environment
- 4 regional mining administrative bureaux (DRM), responsible for implementation of mining policy at the regional level.

Permits and licenses

Mining permits and licenses constitute the heart of the government’s strategy to regulate the mining sector. Permits and licenses are tailored to either industrial or artisanal miners, and fall into the two major categories of *prospecting* and *exploitation*. The specific types of permits and *autorisations* (licenses) allowed by the mining code are as follows:

Prospecting license (*Autorisation de prospection*)

This license is specifically designed for the artisanal miner and is valid throughout the national territory of CAR. Applicants must be nationals of the Central African Republic. An artisanal miner identity card (*carte d’exploitation artisan*) is a prerequisite requirement for this license. This type of license is valid for one year with possibility of being renewed one time

Prospecting permit (*Permis de reconnaissance*)

This permit allows industrial miners to conduct surface prospecting not to exceed a depth of 30 centimeters. The maximum surface area that can be authorized is 10,000 km². The permit is valid for one year, renewable one time.

Exploration permit (*Permis de recherche*)

The exploration permit is for more intensive below surface research within a designated area not to exceed 1,000 km². The permit is granted for 3 years, renewable twice. Exploration operations must be conducted continuously throughout the period of validity of the permit.

Artisanal mining license (*Autorisation d'exploitation artisanale*)

This license allows the artisanal miner to claim exclusive mining rights within a defined area measuring 500m by 500m. The license is valid for a period of 3 years, renewable twice for 2 years each.

Special mining permit (*Permis spéciaux d'exploitation*)

This is a special permit for registered mining cooperatives. It is approved by the regional administration of mines. An artisanal miner identity card (*carte d'exploitation artisan*) is a prerequisite requirement for this license, and must be held by each member of the cooperative. This type of artisanal mining is designed to take place within the territory of the rural collective. The permit cannot be granted and applied to any area in which a prospecting or mining permit or license already exists. The special mining permit is granted for 2 years, renewable in 2-year increments. The special mining permit cannot be granted to any registered diamond collector, holder of diamond company or enterprise shares, anyone formerly convicted of fraud related to mining or mineral marketing activities.

Mining permit (*Permis d'exploitation*)

This permit is for industrial companies that have progressed to active mining operations. No limits are imposed on depth of mining operations. A public inquiry is held prior to granting this type of permit. The permit is valid for 25 years, and is renewable.

Environmental Protection

The most targeted provision of the mining code that promotes environmental health is article 69, which restricts mining operations within 200 meters of buildings, villages, national parks, forest reserves, roadways and other physical infrastructure. Elsewhere in the code, a short series of articles (82-84) somewhat vaguely mandate respect for the environment and protection of natural resources.

Respect for Local Property Rights

Customary property rights are acknowledged without further comment in the “*terminologie*” section of Article 1 (term 17). Article 5 counsels the maintenance of relations with local land owners on the part of the holder of a prospecting license as one of several measures that could be spelled out in the terms of the license. Article 72 provides the strongest protection contained in the mining code of local property rights vis-à-vis the granted rights of the holder of a mining license. Article 72 lists the conditions that will result in obligatory indemnifications of local property rights holders on the part of a mining license holder. Customary property rights holders are specifically noted as eligible for indemnifications. The conditions include: loss of possession of land surface area; damage to surface area; separation of formerly contiguous parcels; loss of

use right or right of passage; loss of agriculturally productive surface area; other social conflicts. The same article requires that the mine operator and local rights holders reach agreement on the terms of potential indemnification prior to commencement of mining operations.

In summary, the 2004 Mining Code appears to constitute a rational and progressive policy platform that: encourages artisanal production of alluvial diamonds; seeks to increase benefits for artisanal miners in part by supporting their organization into cooperatives; defines a logical and cohesive system of permits and licenses to regulate production and marketing of all minerals; provides some protection to CAR nationals vis-à-vis international actors; upholds safeguards for the natural environment; acknowledges customary property rights; and mandates a rationally structured mining administration apparatus to implement and manage the system. These principles are further defined and reinforced by application decree No. 04.183 of June 15, 2004.

Many of the principles upheld by current mining policy merit further investigation and identification of the issues confronted as the principles are translated into implementation programs. Such investigations will be forthcoming during the implementation phase of the PRADD pilot project. At this early stage of PRADD, our focus is on information management and systems which constitute the focus of PRADD result 1. Thus information management is the topic of the following and final section of this initial policy review of the mining sector in CAR.

3. Diamond Production, Marketing and Export Information Systems: Opportunities Provided by Mining Policies

Result 1 of the PRADD pilot project is: *A system for reliable production and export information for diamonds exists at pilot sites.* The overall objective of this section is to identify potential opportunities for strengthening of diamond production and marketing information systems in CAR based on an analysis of existing legislation. As outlined in the activity cluster defined to achieve PRADD result 1,⁷ this initial task will be followed by field exercises designed to *ground-truth* the policy prescriptions and to provide the basis for development of model information systems at PRADD pilot sites.

Information Needs for Achievement of Result #1

The production-to-export range of result 1 indicates that the informational items that will be needed to achieve the result must include elements from each of the links that collectively make up the chain of custody. The chain of custody for artisanally-produced alluvial diamonds in CAR can be viewed in skeletal terms as a three-step model:

- diggers and artisanal miners (at the production site);
- certified diamond collectors (the middlemen);
- buying and exporting businesses under the direct oversight of BECDOR.

Reliable information collected from each of these levels is essential for achievement of result #1.

Information and Policy

The substance, focus and effectiveness of the provisions included in current mining policy that address information collection and management will play a role in achieving result #1. Thus our task in the present section is to identify and analyze the provisions of current mining legislation

⁷ See *Property Rights and Artisanal Diamond Development Pilot Project: Toward an Approach for Artisanal Diamond Development in Central African Republic and Guinea – Pilot Project Design Document*, March 2007, pp. 16-17.

that define, regulate or influence information collection and management. Our intention is to identify both opportunities for strengthening information systems and availability, and remaining gaps in the relevant policies.

The fundamental legal texts on which the present discussion is based are, Ordonnance No. 04.001 enacted February 1, 2004, and Décret No. 04.183 of June 15, 2004. These texts collectively constitute the Mining Code of CAR. The selection of the legal provisions cited below, and the interpretation of their significance, has been supported and enriched during workshop exercises featuring the participation of the following categories of actors: agents based in each of the national directions of the General Direction of Mines, representatives of the National Union of Mining Cooperatives (UNCMCA), and employees of the U.S. Embassy in Bangui (for a complete list of workshop participants please see Annex 1).

Production information

The mining code is extremely and strikingly detailed in the domain of regulating the system of permits and licenses that authorize exploratory and operational mining activities. To illustrate this point, one notes that the earlier summary (see above section on *permits and licenses*) of mining permits and licenses presented only a small portion of the code's provisions regarding permitted prospecting and mining, including identification of eligible beneficiaries, identification of permitted activities, and duration periods of permit validity. However, beyond the mining permit-related details previously presented, the mining code addresses a variety of other permit-related questions including: procedures for permit renewal; procedure for contesting a negative governmental decision regarding a permit application; permissible ways to transfer rights granted to permit holders; litigation procedures; indemnification for loss of a permit; etc. The code's clear emphasis on achieving a tightly regulated system of mineral production that includes all categories of actors and types of exploitation suggests that there are likely to be opportunities for strengthening information systems – particularly at the level of production.

The first opportunity arises from the provision that all mining licenses (*autorisations*) and permits must be registered with the conservator of the mining administration (article 13, O⁸). The conservator is housed in the Programming, Studies and Research office (DPER) of the General Direction of Mines. The informational elements required as part of an application for a mining permit or license are specified according to the type of license being applied for. A set of forms identifying information requirements by type of permit is included as an annex to Décret 04.183. Most types of prospecting and mining permits (with the exception discussed below) require geographical indices either in the form of numerical coordinates or as indicated on a topographical map. For example, article 31 of Décret 04.183 states that applicants for artisanal mining permits must include a topographical representation of the location of the mine. This suggests that establishment of a comprehensive database containing some or all of the information items recorded on applications, especially regarding location of prospecting and mining activities, could provide a first step and something of a foundation toward meeting the production side of the information needs that will lead to achievement of result 1.

An additional opportunity – one that extends beyond mining and into market operations – is suggested by Article 145 of Ordonnance 04.001, which states that *a fine will be imposed on all miners not in possession, at the mining site, of a production and sales register as provided by the mining administration*. The production and sales register features such information categories as

⁸ Article references include the suffix "O" if the article is included in Ordonnance 04.001; and the suffix "D" if included in Décret 04.183.

volumes and types of diamonds mined, as well as information regarding sales transactions such as quantities sold, characteristics and grades of stones, and sales prices and identification of purchaser (the information categories are not specified in the mining code, but were included in the register shown to the author at a mining site).

A potential obstacle in the way of obtaining geographically-specific information that could pinpoint *artisanal* mining activities is that the information required by applicants for a prospecting license (*autorisation de prospection*) does not include specification of the planned location for prospecting beyond the level of the *sous-préfecture* (see page 2 of annexes to Décret 04.183). This would probably not be a serious flaw if most artisanal miners performed the next step defined in the legislation and obtain a mining permit (*autorisation d'exploitation artisanale*), which requires geographically-specific information regarding the “claims” of the permit holder, prior to engaging in mining activities (article 31, D). Article 32 of the same Décret specifies the maximum dimensions of an artisanal claim (100m x 100m), including the maximum permissible depth (20m). It is also of potential interest that the holder of an artisanal mining permit must submit an annual report to the mining administration providing detailed information regarding production and sales value (article 33, D). However, many observers in CAR attest to the fact that it is common practice for artisanal miners to engage in mining activities although they possess only a prospecting license, thus avoiding the requirements imposed on holders of mining permits. The fact that article 20 of Décret 04.183 permits the selling of “samples” of diamonds discovered at prospecting sites – although the same article confirms that the collection of samples should not “degenerate” into artisanal mining operations – may constitute a potential loophole that blurs somewhat the distinction between prospecting and mining.

In summary, opportunities for pertinent information are presented in policies regulating the production end of alluvial diamonds in CAR. Nevertheless, questions remain regarding the quality and completeness of the information, the management and processing of the information, the extent to which the policies are successfully implemented, and whether there is scope for improving information systems. An introductory exercise designed to explore these questions was conducted at the PRADD design validation workshop held at the Hotel Somba in Bangui on March 21-22, 2007. The questions debated within working groups and the consensus responses are reproduced below.

- Exactly what are the types of information included in the paperwork involved in the process for granting mining permits and licenses?
 - *Identity and civil status of the applicant*
 - *Geographical coordinates (in the case of mining licenses)*
 - *Type of permit applied for*
 - *Specification of minerals sought*
 - *Extractive methods (for industrial mining as well as for cooperatives applying for a “special mining permit”)*
 - *Financial resources and investment plans (for industrial mining)*

- Is the permit and license information computerized? And is it centralized into a single database?
 - *Permit and license information collected by the General Direction of Mines is not computerized, at least not completely or correctly. There is no centralized database containing this information.*

- Does the collected mining and permit information apply equally to artisanal mining permits as to industrial mining permits?
 - *All applications for mining permits and licenses require completion of standardized information sheets specific for each type of license (see Annexes to Décret 04.183).*
- How accurate, complete and valid is the collected mining and permit information considered to be?
 - *The information collected is generally accurate and valid, but it is quite often incomplete.*
- To what extent are GIS coordinates specified and included in the mining and permit database?
 - *For industrial prospecting and mining permits, and for special mining permits designed for cooperatives, topographical maps at a scale of 1:200,000 are required that indicate the location of prospecting or mining activities. Exact GPS coordinates may or may not be referenced on these maps.*
- Does the mining and permit information allow for generation of maps showing geographical locations?
 - *The information supplied by industrial level mining companies already includes maps (as described above). Artisanal mining permit holders (in contrast to artisanal prospecting permit holders) are also required to include a topographical map of their operations, although the required scale of these maps is not indicated in the legislation.*
- Regarding the site-specific production and sales registries, has a database been created to monitor and track these registries? If not, is creation of such a database feasible?
 - *No such database has yet been created, although theoretically it is possible to do so.*

Information opportunities related to diamond marketing “middlemen”

In contrast to the pronounced level of detail provided by Ordonnance 04.001 regarding the mining permit and license system, relatively little regulatory detail is included in the Ordonnance’s provisions regarding the middlemen known as “collectors.” Clearly, diamond collectors are required to possess documentation regarding all diamond transactions whether purchases or sales. This is implied in Article 148 which states that *penalties are to be imposed on collectors for falsifying, or not having in their possession, buying and selling records.* Beyond the requirement to obtain certification by obtaining a collector’s identity card (article 98, O), and requirements imposed on individuals who are not CAR nationals applying for certification as a diamond collector in CAR (such as residence and investment requirements – article 100), few provisions of Ordonnance 04.001 directly address the category of diamond marketing middlemen. Nevertheless, the opportunity suggested by article 148 (that collectors are required to maintain buying and selling records) provides an opening for potential information collection at the level of middlemen that is already based on current policy.

The provisions of Ordonnance 04.001 regarding information requirements regarding the diamond middlemen known as “collectors” are significantly reinforced by Décret 04.183, which clearly requires that each sale of gems be registered, numbered, stamped and recorded in the records of the General Directorate of Mines (article 62, D). At a more decentralized level, all expired buying and selling record books (*bordereaux d’achat*) must be surrendered to the regional office of the mining administration nearest the domain of commercial activity of the collector (article 64, para 3, D). Article 65 (para 1) requires that four copies of the transactions registered in the standardized buying and selling records must be maintained, of which the original is to be retained by the collector (the ultimate destination of each copy does not appear to be specified in the legislation, although workshop participants stated that 1 copy was for the buyer; 1 copy for the seller; and 2 copies for the General Directorate of Mines).

Again, the quality of implementation and enforcement of the requirement that the collector maintain buying and selling records will in large part determine the significance of the opportunity this requirement affords to strengthen existing information systems. Additional details regarding the nature, quality and accessibility of the buying and selling records will also play a role in determining to what extent the opportunity can be exploited to contribute to achievement of result #1. The following questions and answers resulted from small group work conducted during the PRADD validation workshop completed March 21-22.

- Is there a computerized database containing basic information of all registered diamond collectors?
 - *Although the answer of the working group was “yes,” the group’s cited reference for this answer were articles of the mining code that the group believed would lead to a positive answer to this question. The issue of whether or not these articles were correctly implemented was not addressed.*
- If so, what types of information are included?
 - *Civil status*
 - *Proof that fees and taxes have been paid*
 - *A collector’s identity card properly sequenced and with photo*
 - *Buying and selling information contained in previous records books (*bordereaux d’achat*)*
- Is it possible to identify all collectors who buy diamonds from specific mining sites (this will be a pertinent issue at PRADD pilot project sites)?
 - *The working group’s answer to this question is a qualified “yes.” The qualification cited is that artisanal mining production records be available to cross-check the collector’s records, and that the Brigade Minière enforce applicable legislation to assure the validity of all such records.*
- If so, is it feasible to establish a database that contains basic information on all collectors and their transactions at specific sites?

- *The answer of the working group to this question is “yes.” Again, the group’s reference in arriving at this answer consists of the provisions of the legislation that define the information requirements imposed on certified alluvial diamond collectors.*

Information opportunities related to diamond buying and export businesses

Buying and selling houses, similar to collectors, receive much less attention in Ordonnance 04.001 than do actors at the level of production. Also similar to collectors, the primary opportunity to achieve information needs in the context of result 1 is that *each purchase* (of diamonds) *by a diamond house* (buying and export business) *must be accompanied by purchase records that have been registered with the mining administration* (article 150, O). Sanctions for failure to possess such records are specified by article 150 of Ordonnance 04.001. Décret 04.183 is somewhat more precise in specifying the information requirements of buying and selling houses. Article 70 of this decree requires that diamond exporters evacuate their stocks for exports at least on a monthly basis, and that each shipment prepared for export be reported to BECDOR (the government agency supervising diamond and gold exports) in the form of the official “buying and selling record book” (*bordereaux d’achat*) that includes the purchasing records of the diamonds to be exported.

Regarding diamond marketing information provided for in current mining regulations at the level of diamond buying and export businesses, questions examined by workshop participants, and the participants’ answers, are as follows:

- Is there a computerized database containing purchase information registered diamond buying and selling businesses?
 - *The working group’s answer to this question is “yes.” The explanation for this answer is that the buying and selling houses themselves provide the information in the form of computer files.*
- If so, what types of information are included?
 - *The diamonds to be exported are placed into categories defined by weight and quality.*
- If not, is it feasible to establish such a database?
 - *A compilation of the records provided by each buying and selling business could result in creation of a centralized and computerized database.*
- Is it possible to identify all diamonds produced at a specific site once they’ve reached the level of the buying and export company (this will be a pertinent issue at PRADD pilot project sites)?
 - *It is theoretically possible to determine the site of origin of diamonds based on the physical characteristics of the diamonds. The question of whether identification of the diamonds by site was not addressed by the working group, but plenary session discussions concluded that the existing paper trail, which is generally of poor quality, would not allow*

for identification of sites of origin of diamonds that have arrived at the point of export.

Information opportunities at the level of BECDOR

BECDOR, a government agency within the DCIFM, is responsible for conducting official valuations of all diamonds to be exported. BECDOR must collaborate with diamond buying and export businesses throughout the process of certifying diamonds for export. BECDOR is responsible for assuring that Kimberley certification procedures are effectively applied.

Regarding diamond trade and export information available to BECDOR, questions to be examined by workshop participants include:

- What are the types and extent of information generated and collected by this agency?
 - *Available records are those provided by the diamond buying and selling businesses. These records are provided to BECDOR 48 hours prior to export in order to allow BECDOR the time to verify the recorded transactions. Beyond the records documenting purchase of the diamonds by the exporting company, the primary information included regards the quality and weight of the diamonds to be exported.*
- Is all or some of this information contained in computerized databases?
 - *The information is computerized in part by the buying and selling businesses. Information regarding the downstream activities of the collector or agent from whom the buying and selling business obtained the diamonds is generally lacking due to shortfalls in human resource capacity.*
- If so, what types of information are included?
 - *Documentation at this stage includes: an exporting form, Kimberly Process certification, statistics regarding the annual and monthly export activities of the buying and selling business, export authorization and valuation estimate.*
- Is it possible to identify all diamonds produced at a specific site once they've reached the level of export (this will be a pertinent issue at PRADD pilot project sites)?
 - *This is only partially feasible. In order to track diamonds to their sites of origin one would need a system based on the physical characteristics of the diamonds, and this has yet to be perfected. Again, it appears that the paper trail does not allow for such tracking at this time.*

Conclusion

In summary, based on a study of existing legislation, information collection and management opportunities exist at each link of the alluvial diamond chain of custody. However, at this early stage in the investigations planned by the PRADD pilot project, it appears that there are many weaknesses in application of the legislation, and that these weaknesses impose obstacles in the way of establishing databases and information systems that would provide reliable production and marketing information at each link of the chain of custody regarding alluvial diamonds in CAR.

The crucial links of the chain of custody are defined by the actors operating at the links, and each of the links is subject to existing legislation that monitors and regulates commercial transactions and that requires production and marketing information as a prerequisite for certification. These categories include:

- Diggers (Nagbata)
- Artisanal miners
- Artisanal mining cooperatives
- Industrial mining companies
- Collectors
- Buying and export businesses
- BECDOR

At the time of this writing the PRADD pilot project is still in its start-up phase. Much work remains to determine the most efficient way to move toward establishment of a reliable information system at each stage of the chain of custody beginning with the soon-to-be selected PRADD pilot sites. But study of existing policy information, and examination of the information with stakeholders in CAR, has provided indications of appropriate next steps. Much depends on selection of pilot sites that lend themselves to transparent disclosure of production and marketing activities, and a degree of clarity in monitoring locally-produced diamonds through the links of the chain of custody and to the point of export. Thus the important topic of PRADD pilot site selection is featured in the following section of this report.

ANNEX 1: List of participants who examined first draft of Policy Review at PRADD Design Validation workshop held at the Hotel Somba, Bangui, Central African Republic on March 21-22, 2007

	NAME	TITLE /	INSTITUTION
1	ITDENDJI Jean Noël	Chef de Service des Techniques Industrielles	DCIFM, DGM
2	MAINDE Mathias	Ingénieur des Travaux - Golo	DPER, DGM
3	NGOBOKOTO François Alain	Ingénieur des Mines	DGM
4	FROGANDJI Jean Marc	Président	UNCMCA
5	GAISSOM André	Chef de Service d'Appui Technique, Matériel et de Vulgarisation	DAPM, DGM
6	BENGBA Marie-Thérèse	Directrice	DAPM
7	NGOZO Joseph	FSN	U.S. Embassy, Bangui
8	MCGLOTHLIN Cameron D.	Political / Economic Officer	U.S. Embassy, Bangui
9	RIBAZ Lévy	Ingénieur des Mines	DGM
10	NGONDJO Annie	Ingénieur des Mines ; Chef de Service du Contrôle, Suivi et Evaluation de l'Investissement	DAPM
11	INGA Armand Claude	Secrétaire Général Adjoint	UNCMCA
12	BANGOTO Richard Ricardo	Assistant Technique	DGM
13	DOTHE Armand	Expert Evalueur, Chef de Service de la Protection de l'Environnement	DAPM, DGM
14	MISSIGOR Jules	Expert Evalueur	BECDOR, DCIFM, DGM
15	MAKILO Jérémy Eldor	Chef de Service de la Prospection, de la Recherche et du Laboratoire	DPER, DGM
16	MULLEY Brad	Chef d'Equipe	PRADD/ARD
17	ELBOW Kent	Consultant	PRADD/ARD