POLICY BRIEF

THE KIMBERLEY PROCESS: RESPONDING TO CHALLENGES AND POLICY GAPS IN CAMEROON

Natural Resource Governance Institute

RELUFA

PRESBYTERIAN HUNGER PROGRAM

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INTRODUCTION

This policy brief seeks to analyze some of the challenges and policy gaps that have emerged since 2012 when Cameroon first joined the Kimberley Process Certification Scheme (KPCS). These gaps require prompt intervention from policy makers if Cameroon ever expects diamond exports to contribute in generating national revenue. In particular, the brief highlights that the current diamond export tax rate in Cameroon is higher than other diamond export taxes in the region, which may encourage diamond smuggling outside of Cameroon's borders and therefore jeopardize both the ability to collect revenue and also risk Cameroon being seen as non- compliant with KPCS standards.

BACKGROUND

Created in 2003 by UN General Assembly Resolution 55/56, the Kimberley Process Certification Scheme (KPCS) served as a response to the public outcry that emerged at the end of the 1990s about diamond fueled conflicts. The KPCS is precisely a joint government, industry and civil society initiative aimed at eliminating the trade in conflict diamonds commonly defined as "rough diamonds used by rebel movements or their allies to finance armed conflicts which undermine legitimate governments". [1]The KPCS currently has 54 participants representing 81 countries

with the European Union and its member states counting as a single participant.
Cameroon first joined the KPCS in 2012.Prior to this, small-scale artisanal diamond production existed in Cameroon for several decades but no major industrial diamond mining took place. The industry changed in 2010, when C§K mining Inc. received an exploitation permit for an industrial diamond mining project in Mobilong in the Boumba and Ngoko division of the East Region. In 2013, C§K company exported its first consignment of commercial diamond worth 600 carats under the Kimberley Process Certification Scheme. However, since then, C§K activities have been minimal with little official diamond exports.

Generally, the contribution of diamond sales to government revenue in Cameroon is still very marginal when compared with other countries in the sub region like the Central African Republic. [2]After four years as a Kimberley Process participant, it is important to examine the diamond export chain in Cameroon to see its potential to generate revenue for the state. Civil Society Organizations as third pillar of the Kimberley Process Certification Scheme acts as independent watchdog and RELUFA has been playing a key role as civil society representative within the multi-stakeholder group implementing the KPCS in Cameroon. That is why RELUFA finds it legitimate to assess the current situation since most Cameroonians saw the Kimberley Process Certification Scheme as an opportunity to raise revenue from diamond exports to contribute to improve economic fortunes at the local and national levels.

THE POLICY ISSUE

This policy brief addresses specifically the high diamond export taxes in Cameroon. Diamond export taxes can constitute an important revenue stream if they are effectively collected under the KPCS. Some of the revenue collected is used to support the National Permanent Secretariat charged with the implementation of the KPCS while the rest of the revenue is transferred to the state central treasury according to a sharing formula explained below. But for revenues to be effectively generated, the diamond export taxes levied need to reflect the context in which Cameroon operates. This does not seem to be the case at moment.

Upon joining the Kimberley process in 2012, the diamond export tax applicable in Cameroon was 12.5 %. For any diamond to be exported from Cameroon under the Kimberley Process Certification Scheme, the diamond exporter paid 8 %representing the ad valorem tax rate as previewed in the 2001 applicable mining code. [3]The rest of the 4.5% represented a 2 % customs export levy and 2.5 % for the functioning of the National Permanent Secretariat of Kimberley Process in Cameroon. Paradoxically, in 2014 the government of Cameroon increased the ad valorem tax rate for diamond through a finance law. From an initial 8% as provided for by the mining code, the ad valorem tax rate was raised to 20% by law no. 2014/026 of 23 December 2014 on the Finance Law of Cameroon for 2015. With this increase in the ad valorem tax rate, the diamond export tax rate within the Kimberley Process Certification Scheme in Cameroon rose from 12.5% in 2012- 2014 to 24.5% in 2015and the same rate is applicable today in 2016.

Cameroon KPCS statistics for 2015 (Amount in CFAF)

	Custom levy	KP Functioning	Ad Valorem Tax	Total
Tax rate	2 %	2.5%	20%	24.5%
Amount	6.055.110 CFA	8.147.925 CFA	59.228.345 CFA	73.431.380 CFA

Source: KP website

The immediate possible policy implication of such an increase is that those involved in diamond production and export in Cameroon may be pushed underground simply to avoid paying high diamond export taxes and preferring not to sell their diamonds through official channels as the KPCS requires[4].

One can try to analyze and understand the rationale for the Cameroon governments approach to increase certain taxes under current circumstances. Since the escalation of the Boko Haram insurgency in 2013 and the engagement of troops to combat this security threat, the government has engaged in mobilizing funds from various sources to face the current challenge. This may partly justify the increase of the diamond export tax as an additional source of revenue for the state. But it is likely that the expected results may not necessarily be achieved if diamond exports elude official circuits due to the high taxes. What the current diamond tax rate can encourage is diamond smuggling. Already diamonds are being hidden by exporters and taken out of Cameroon without the appropriate KPCS certificates and that is why fake KP certificates originating from Cameroon are regularly discovered and reported in Europe and in other diamond export destinations. [5]This means that diamonds leave Cameroon without passing through official channels for the appropriate taxes to be paid before any diamond export as required. But we do not mean to pretend here that fake KP certificates are only a Cameroonian problem, as other KPCS participants face similar problems. The high diamond export tax is therefore the policy contradiction that Cameroon should avoid. This will help in its ability to comply with KPCS principle of ensuring that all diamond export takes place through official circuits.

Already, Cameroon has been viewed with a lot of suspicions of being a transit country for diamonds from conflict ridden Central African Republic following the escalation of civil conflict and the country's subsequent suspension from the KPCS in May 2013. [6]Diamond production capacity of the Central African Republic is estimated at 840.000 carats a year which far exceeds that of Cameroon estimated at 5.000 carats a year. [7]Some reports even openly alluded to Cameroon as a transit route for illicit diamonds from the Central African Republic and the KP went as far as urging its members to pay special attention to shipments of rough diamonds accompanied by a Cameroon KP certificate. [8]Immersed in conflict and under KP suspension since 2013, the Central African Republic could not officially export its diamonds since Kimberley Process participant countries are expected to prevent conflict diamonds from entering the official circuit and should trade diamonds only with each other accompanied by KP certificates for all exports and imports of rough diamonds. But at moment, following clearance by the International KPCS in April 2016 that diamonds from Berberati in the Central African Republic are compliant and can be exported, the potential complete reinsertion of the Central African Republic in to the KP can be envisaged and may encourage Cameroon diamonds being smuggled through CAR with comparative low diamond export tax which is 12% compared to the 24.5% currently in Cameroon.

Under current circumstances, smuggling of Cameroon diamonds through CAR for export abroad is possible. The low diamond export tax in the Central African Republic can be an incentive for diamond exporters who might want to avoid the high taxes in Cameroon and increase their profit margins through exports from CAR instead of Cameroon. Considering the difference in potential and competing interests of these two countries, it is very important for Cameroon to adopt policies that can help it capture maximum benefits from its diamond export. This depends largely on the diamond export tax it chooses to apply. Regrettably, it appears that the Cameroon government for now has opted for high diamond export rates with the hope that this will bring in more revenue.

Although some measures have been taken by the National Permanent Secretariat of the Kimberley process in Cameroon to monitor the diamond production and export chain, a lot of challenges still remain. Internal control mechanisms instituted to enhance traceability of diamond production is proving very difficult with artisanal miners. This can be attributed to the fact that mining sites are dispersed in isolated areas, and the limited human resources both in the Ministry of Mines, Industry and Technological Development and the National Permanent Secretariat of the Kimberley Process makes proper internal control of diamond flows difficult. Since diamonds are small, easy to carry and not easily spotted out by metal detectors, smuggling and tax evasion becomes very easy. Worse still, the diamond trade chain in Cameroon is too complicated and difficult since it is managed principally by long established diamond dealers whose milieu is not easily penetrated. From the forgoing analysis, Cameroon needs to make the necessary amends in its diamond export tax framework to ensure diamond exporters do not go underground so that the Kimberley Process Certification Scheme can remain relevant. Even if it can be argued that most if not all KP implementing countries face smuggling challenges, the high diamond export tax in Cameroon can contribute in exacerbating diamond smuggling posing a challenge to its effective implementation of the Kimberley Process Certification Scheme.

CONCLUSION AND RECOMMENDATIONS

The KPCS remains an important tool to facilitate the generation of revenue from the export of conflict-free diamonds in Cameroon. However, the policy gaps and challenges facing the Kimberley Process Certification Scheme as highlighted in this policy brief can compromise its potential to generate these revenues. It is important to fill the policy gaps and address some of the challenges that compromise the achievement of the set objectives. Given that the Cameroon government wants to be a key diamond producing country and remain a participant in the Kimberley Process and generate revenue from diamond exports, there are at least three things that it could do to start responding to the policy gaps and challenges and in its implementation of the Kimberley Process.

1 The government of Cameroon should revise the diamond export tax rate and harmonize it with those of neighboring countries so that the diamond export tax is not a disincentive to diamond exporters who want to export their diamonds through official channels in Cameroon
2 The government should increase the human resources potential and capacity in the Ministry of Mines, Industries and Technological Development and also in the National Permanent Secretariat of the Kimberley Process Certification Scheme for effective monitoring and channeling of artisanal diamond production through official circuits.
3 The government and other relevant stakeholders should provide incentives for artisanal miners as a way to deter them engaging in diamond smuggling.

[1] http://www.brilliantearth.com/kimberley-process

[2] Cameroon generated a **total 73.431.380 CFAF from its diamond export in 2015While the Central African Republic before suspension from the Kimberley Process in 2012 generated 30.171.618.000 CFAF from its diamonds exports in 2011 http://kimberleyprocessstatistics.org/ Accessed 01 April 2016**

[3] article 144 (2) of Decree No. 2002/648/PM of 26 March 2002 to lay down conditions for the implementation of Law No. 2001/1 of 16 April 2001 to establish the Mining Code

[4] (http://www.pacweb.org/en/central-african-republic)accessed 31 march 2016

[5] http://www.idexonline.com/FullArticle?Id=41821**KP** Calls for Vigilance Over **Fake**

Cameroon Certificates

[6] http://rough-polished.com/en/news/77861.html

[7] Peter G. Chirico, Francis Barthélémy, and François A. Ngbokoto (May 2007) Alluvial Diamond Resource Potential and Production Capacity Assessment of the Central African Republic http://pubs.usgshttp://www.brilliantearth.com/kimberley-process

[8] https://www.yahoo.com/news/cameroon-involved.

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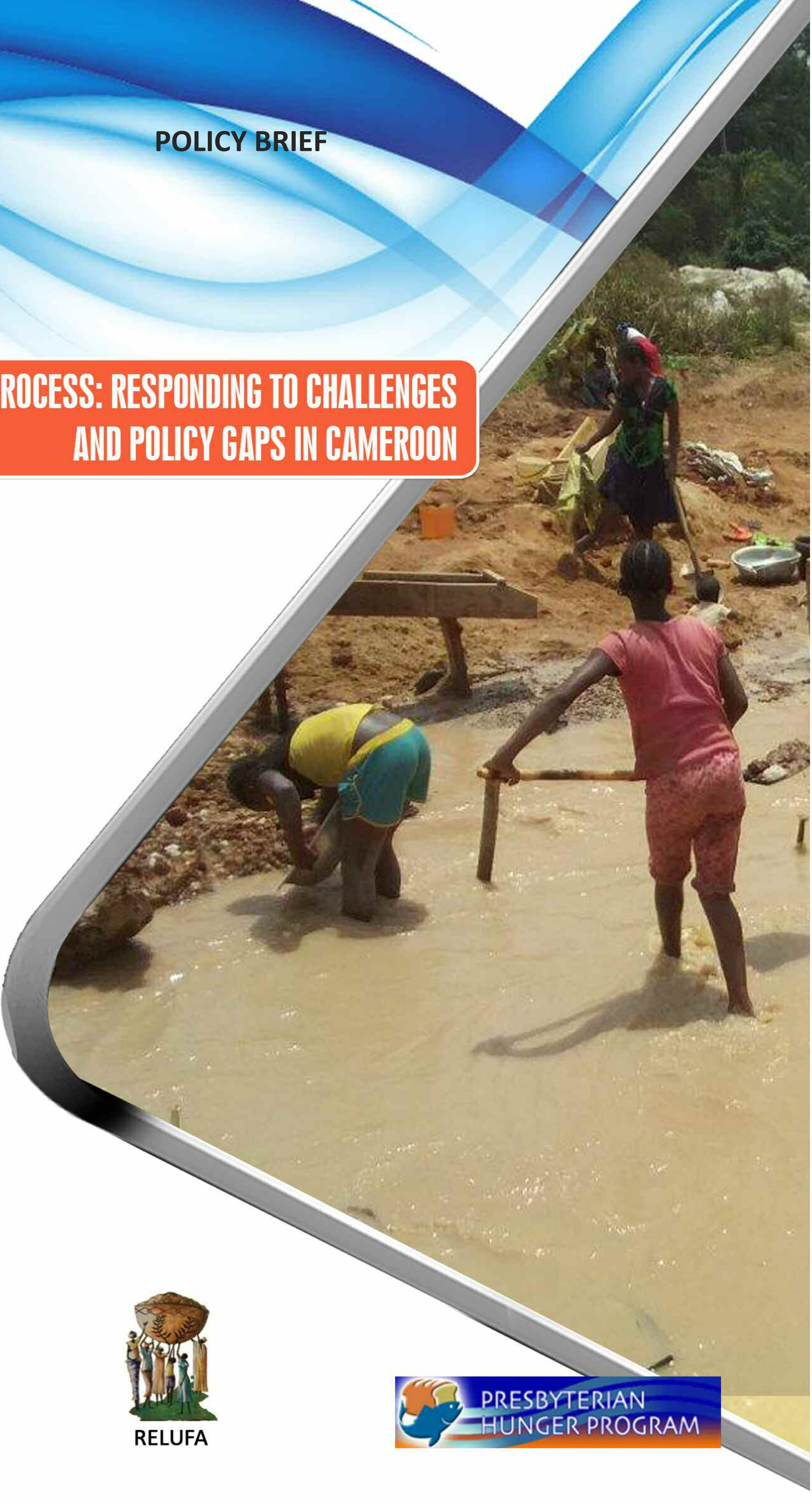

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