

Ministry of Mines & Energy

Promoting Namibia's mineral, geological and energy resources

STAKEHOLDER CONSULTATION WORKSHOP - MORATORIUM ON DIAMOND ACT LICENSES, 9 SEPTEMBER 2019, NIPAM, WINDHOEK

TIME	ACTIVITY	PRESENTER
	Facilitator	Ms. Yolanda Itamba, Senior Legal Officer, AG's Office
8:00 – 8:30	Registration and Tea	All
08:30 – 08:40	Introductory Remarks	Ms. Miina N Gahutu, Diamond Commissioner
8:40 – 09:00	Welcome Remarks	Mr. Simeon N. Negumbo, Executive Director of Mines and Energy
09:00 – 09:30	Overview: Moratorium on Diamond Act Licenses	Ms. Miina N Gahutu, Diamond Commissioner
09:30 – 10:00	Overview on Diamond Beneficiation	Mr. Brent Eiseb, CEO of NDTC
10:00 – 10:30	Tea Break	All
10:30 – 11:00	Diamond Beneficiation: Industry Perspective	Mr. Ofer Babluki Chairman of DIAMAN
11:00 – 12:30	Discussion	Ms. Yolanda Itamba, Senior Legal Officer, AG's Officer
12:30 – 14:00	Lunch	All
14:00 – 14:30	Discussion	Ms. Yolanda Itamba, Senior Legal Officer, AG's Office
14:30 – 15:00	Tea Break	All
15:00 – 15:20	Way Forward	Ms. Miina N Gahutu
15:20 – 15:30	Vote of Thanks	Mr. Paulinus Sheehama, Deputy Director: Security and Risk Management Services Division, MME



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CONCEPT NOTE: MORATORIUM ON ISSUANCE OF DIAMOND LICENSES

MINISTRY: Ministry Of Mines and Energy
LEGAL FRAMEWORK: Diamond Act, 1999 (Act No. 13 of 1999)
CONTACT PERSON: Miina Gahutu, Diamond Commissioner
DATE: 08 August 2019

1. PROBLEM:

Assessment of the Moratorium on the issuance of diamond licenses (the "Moratorium").

2. OBJECTIVE

2.1 The objectives of this Concept Note are to:

- 2.1.1 provide important information about the Moratorium to key stakeholders (list attached hereto as Annexure A) of the diamond industry; and
- 2.1.2 conduct external key stakeholder engagement to solicit their views and opinions on the Moratorium on 20 August 2019, time and venue are yet to be confirmed.

3. BACKGROUND

3.1 On 01 February 2007 the former Minister of Mines and Energy, Hon. Erkki Nghimtina imposed the Moratorium and this was communicated to the public by way of a press release (attached hereto as Annexure B).

3.2 In summation, the grounds for the Moratorium were as follows:

3.2.1 there was an insufficient supply of rough diamonds from the Namibia Diamond Trading Company ("NDTC") to the local market;

3.2.2 an assessment of existing licensee's performance found that the growth of the industry was below what was expected;

3.2.3 the sustainability and viability of the downstream industry was hampered by several constraints in the sector; and

3.2.4 the critical need to maintain sufficient regulatory oversight and control over the industry to ward off threats of illicit activities and ensure compliance with the Kimberley Process (the "KP").

4. THE CONSEQUENCES OF IMPLEMENTING THE MORATORIUM

4.1 Before assessing what has been achieved during the implementation of the Moratorium, we will first take note of the following negative consequences that resulted:

4.1.1 allegations that it has only benefitted a few current licensees;

4.1.2 exclusion of new players in the industry because the only way to 'acquire' a license was mainly through transfers under the Diamond Act, 1999 (Act No. 13 of 1999);

4.1.3 an appeal from the industry that the Moratorium be lifted; and

4.1.4 a desire by the NDTC to increase its clientele base and enhance competition.

4.2 Paragraph 3.2 above contains a summary of the grounds for the imposition of the Moratorium. Below is a report on the results of the Diamond Licensing and Security Committee's (the "DLSC") in house assessment of the Moratorium and it will focus on what has been achieved to address the concerns that existed at the time of imposing the Moratorium:

- 4.2.1 the insufficient supply of rough diamonds from the NDTC was addressed by –
- (i) the supply of +10.80 carat diamonds for local polishing (made possible by the new 10 year Diamond Sales and Marketing Agreement between Namibia and De Beers);
 - (ii) the supply of fifteen percent (15%) of Namdeb Diamond Corporation (Pty) Limited ("Namdeb") run-of-mine production to Namib Desert Diamonds Pty Ltd ("Namdia") to perform their role of price discovery; and
 - (iii) NDTC has increased the price indexed local supply of rough diamonds to an amount worth Four Hundred and Thirty Million (\$430, 000, 000.00) USD annually.

4.2.2 assessment of existing licensee's performance has been addressed by-

- (i) the bi-annual assessment of licensees through joint technical and factory reviews between the Ministry of Mines and Energy (the "Ministry") in collaboration with the NDTC as well as the Directorate of Customs and Excise under the Ministry of Finance;
- (ii) updates on the industry's beneficiation performance that are provided by the above exercise; and
- (iii) the NDTC adjusting its allocations to the local industry by assessing how a company performs in the beneficiation of rough diamonds supplied by it to local manufacturers.

4.2.3 sustainability and viability of the downstream industry has been proven to exist as demonstrated by the continued investment and support of the local industry. There is however, an additional call for-

- (i) industry diversification;
- (ii) vertical integrated business models; and
- (iii) a review of license fees to increase revenue for the State.

4.2.4 regulatory oversight and control over the industry is still an ongoing process, the Ministry has made great strides in being KP compliant and a testimony to that fact is the positive KP review that the Ministry received in 2017. Despite the above accomplishment, the following needs to be addressed-

- (i) increasing the monitoring and evaluation of the industry by the Ministry;
- (ii) implementing systems to detect synthetic diamonds;
- (iii) strengthening internal control systems such as the introduction of electronic KP licensing in order accurately and efficiently capture and manage data;
- (iv) concluding the legislative review and amendment of the Diamond Act in order to strengthen the regulatory oversight; and
- (v) increasing and strengthening the institutional capacity of Diamond Inspectors employed by the Ministry.

5. IMPLICATIONS OF LIFTING THE MORATORIUM

5.1 Noting the outcome of the DLSC's in house assessment, we have found one of the implications of lifting the Moratorium is that it is likely to lead to a more diverse industry with different role players from financiers, small and medium enterprises, more competition in the industry, jewelry manufacturers that have improved beneficiation and vertically integrated models 'from mine to finger'.

5.2 At this instance, it is not advisable to lift the Moratorium for the following reasons:

5.2.1 there is a need for the Ministry to receive input from the diamond industry and this is best achieved through consultation and engagement with key stakeholders in the industry

5.2.2 the legislative review of the Diamond Act, 1999 has to be concluded before the Moratorium can be lifted; and

5.2.3 this will ensure that the lifting of the Moratorium will be done in a manner that will comply with the new law instead of introducing the new law along the way, thus disrupting the conduct of business.

ANNEXURE A:

1. Ministry of Mines and Energy;
2. Ministry of Finance;
3. Ministry of Safety and Security;
4. Office of the Attorney-General;
5. Ministry of Industrialisation, Trade and SME Development;
6. Diamond Manufacturers' Association of Namibia;
7. NDTC;
8. Namdia;
9. All licensees in terms of the Diamond Act;
10. University of Namibia;
11. Namibia University of Science and Technology; and
12. Potential local investors.






Republic of Namibia

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MEMORANDUM

FROM:  Kennedy Hamutenya
Diamond Commissioner

TO: The Namibian Media

DATE: 02 February 2007

SUBJECT: MORATORIUM ON ISSUING DIAMOND
LICENSES

02.02.07

Please find attached a Press Release from the Honorable Minister of Mines and Energy on the above subject matter. If you have any further questions feel free to contact me on my mobile (0811247324).

Kind regards.



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PRESS RELEASE

1ST FEBRUARY 2007

I hereby announce that I have placed a moratorium on the granting of new Cutting and Polishing licenses. No pending or incoming licenses will be considered any longer until further notice.

Government has negotiated an Agreement whereby local manufacturers will be supplied with rough diamonds for local beneficiation. The percentage of carats available for local manufacturing were arrived at based on a formula that takes into account existing and projected capacities.


Since the commencement of the Diamond Act of 1999 in 2000, a number of licensees have set up shop in Namibia and have been waiting around for years to get supply. Some of those factories have been very patient when times were very difficult - investing significant resources in equipment, training and even paying workers when they were sitting idle with no diamonds to cut. The Ministry therefore deems it necessary to support those companies that believed in and had faith in the potential of Namibia's diamond sector that they hung around long enough to witness the signing of our watershed agreement that makes provision for local supply.

It is also imperative that the Government assess the performance of the sector with the optimal number of players that we have now issued licenses to. Though unlimited growth of the diamond sector would have been an ideal scenario, unfortunately, the quantity of diamonds available to ensure a viable and sustainable sector is a constraint that had to be taken into consideration.

It is also critical that Government continues to maintain sufficient regulatory oversight and control over an industry whose product is vulnerable to the threats of illicit activities and possible negative ramifications to the image of the product from ethical issues such as blood diamonds and to ensure that Namibia remains compliant with its obligations to the Kimberley Process.

On the basis of the above motivating factors, a policy decision was therefore arrived at to put this moratorium on the granting of any further cutting and polishing licenses.

Yours Sincerely


Hon. Erkki Nghimtina - MP
Minister

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