FIRST REPORT

OF THE PORTFOLIO COMMITTEE ON MINES AND ENERGY ON THE CONSOLIDATION OF THE DIAMOND MINING COMPANIES

FOURTH SESSION – EIGHTH PARLIAMENT

Presented To Parliament on the 6th of April, 2017

[S.C. 9 - 2017]

ORDERED IN TERMS OF STANDING ORDER No. 17 THAT:

1) At the commencement of every Session, there must be as many Committees to be designated according to government portfolios as the Committee on Standing Rules and Orders may deem fit.
2) Each Select Committee must be known by the portfolio determined for it by the Committee on Standing Rules and Orders.

TERMS OF REFERENCE OF PORTFOLIO COMMITTEES STANDING ORDER No. 20

Subject to these Standing Orders, Portfolio Committees must-

a) examine expenditure administration and policy of government departments and other matters falling within their jurisdiction as Parliament may, by resolution determine;
b) consider and deal with all Bills other than a Constitutional Bill and Statutory Instruments or other matters which are referred to them by or under a resolution of the House of by the Speaker;
c) consider or deal with an Appropriation or Money Bill or any aspect of an Appropriation or Money Bill referred to them by these Standing Orders or by resolution of this House;
d) monitor, investigate, enquire into and make recommendations relating to any aspect of the legislative programme, budget, policy, or any other matters it may consider relevant to the government department falling within the category of affairs assigned to them, and may for that purpose consult and liaise with such department; and,
e) consider or deal with all international treaties, conventions and agreements relevant to it, which are from time to time negotiated, entered into or agreed upon.

On Thursday, 6 October 2016, Mr Speaker announced that the Committee on Standing Rules and Orders had nominated the following Members to serve on the Portfolio Committee on Mines and Energy:

Hon. Dr. Daniel Shumba (Chairperson) ; Hon. S. Bhuda ; Hon K Kazembe ; Hon T. Muzenda ; Hon L Chikomba ; Hon M Matambanadzo ; Hon J Holder ; Hon J Madubeko ; Hon P Haritatos ; Hon M Kaundikiza ; Hon M Nkatazo ; Hon D Mashonganyika ; Hon T Khumalo ; Hon P Mutseyami ; Hon F Munengami ; Hon T Matangira ; Hon T Zhou ; Hon F Chirisa ; Hon L Sibanda ; Hon T Chisorochengwe ; Hon R Mukwena ; Hon J Jaboon ; Hon S Mudarikwa ; Hon A Ndebele ; Hon J Gabbuza ; Hon E Gumbo ; Hon O.S Hungwe ; Hon B Majaya ; Hon S Matsunga ; Hon E. S Muzondiwa ; Hon I Pedzisai ; Hon T Mliswa

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Report on the Consolidation of Diamond Mining Companies, 2017

1. Introduction

The diamond industry plays an important role in the socio-economic development of several African countries, given that 65% [1]of the world's diamonds, with an annual value of 8, 5 billion American dollars are extracted from the continent. Globally, it is estimated that 10 million people benefit either directly or indirectly from the diamond industry.In Southern Africa, countries such as Botswana, Namibia and South Africa are realising substantial socio-economic gains from the diamond industry. For instance, diamond revenues in Botswana enable all children up to the age of 13 to receive free education and in Namibia the diamond sector contributes 40% of the country's annual export earnings[2]. World leaders, including the late Nelson Mandela have outlined the socio-economic importance of diamonds to the lives of African people.

However, in Zimbabwe the situation is the opposite of what is happening in itsneighbouring countries. After the discovery of huge diamond deposits in Marange in the mid-2000, theexpectation was thatdiamond revenues will contribute significantly to national development but the industry has been a disappointment. This sentiment is expressed in the 2016 National Budget Statement bythe Minister of Finance and Economic Development stateswherein he statedthat, *"this is a resource that seems to have not benefitted the generality of our people...."*

In this context, the Committee on Mines and Energy sought to follow the objectives below;

- To unpack the underlying causes of the poor performance by the diamond industry;
- To analyse the contributionof diamonds to Treasury; and
- To analyse the socio-economic impacts of consolidation of diamond mines.

2. Background on the Diamond Industry in Zimbabwe

Diamonds were first discovered in Zimbabwe in 1903 in the Somabula area. For over a century, the industryremained small with two mining operations by River Ranch located in Beitbridge and Murowa Diamonds in Zvishavane. The sector became a force to reckon with following hugediscoveries in Marange in the mid-2000s withestimates that the country could supply 25% of the world's annual diamond market. Several companies were awarded special grants to operate in Marange through joint venture partnerships with the Government, represented by Zimbabwe

[1] Diamondfacts.org
[2] Diamondfacts.org

Mining Development Corporation (ZMDC). Government had a 50% shareholding in all these companies which included;Mbada Diamonds, Marange Resources, Jinan, Diamond Mining Corporation (DMC) and Anjin Investments. Other mining companies includedKusena Diamonds, Rera, GyeNyame, Marange Resources, Nan Jiang Africa Resources in Bikita and DTZ OZGEO in Chimanimani. The alluvial diamonds were identified over hundreds of thousands of hectares, hence government in its wisdom decided to issue multiple licenses to various investors. The policy position of government shifted in 2015, with the thrust of centralising all diamond mines in the country which would be managed through a company known as the Zimbabwe Consolidated Diamond Company (ZCDC).

3. Methodology

The Committee held oral evidence sessions with the following stakeholders: the Ministry of Mines and Mining development was represented by its Minister Hon Walter Chidhakwa, the Deputy Minister, Hon Fred Moyo and the Permanent Secretary Professor Francis Gudyanga; Officials and former employees of ZCDC; a representative from Pedstock and the former acting General Manager of Minerals Marketing Corporation of Zimbabwe (MMCZ), Mr RichardChingodza. The Committee had an opportunity to conduct a field visit to Chiadzwatoget an insight into the socio-economic impacts of the consolidation process. Unfortunately the Committee did not get an opportunity to interact with ZMDC's former joint venture partners because of a legal dispute that is before the courts. The Committee was unable to visit and interact with regional countries such as Botswana and Namibia, due to limited financial resources. The proposed visit would have enabled the Committee to get an understanding of the factors behind the success recorded by their diamond industries.

4. Findings

4.1 Purpose of Consolidation of Diamond Mining Companies

The Committee was informed by the Minister of Mines and Mining Development that overally, the consolidation process sought to stimulate growth and productivity of the diamond industry, as well as promote transparency and accountability in the entire diamond value chain, with the ultimate result of improved revenues inflows to Treasury.

The consolidation process would also address the following challenges that were inhibiting the growth of the sector;

i. ***Erratic diamondsales.***Mining companies were negotiating contracts for the sales and marketing of diamonds to companies of their choice and these contracts were individualistic in nature and disregarded national interests. Through consolidation, marketing and sales would be conducted through one institution.

ii. ***To plug out smuggling and leakages of diamonds.***Allegations were abound of leakages and smuggling of diamonds,with estimates that diamond revenues worth about US$15 billion could not be accounted for. Monitoring and supervision would be easier through one company.

iii. ***Lack of mutual respect and trust.*** There was no longer mutual respect and trust between government and its joint venture partners. This was emanating from the fact that the joint venture partners were not willing to expand their operations into the mining of conglomerates and for the exploration of the kimberlitic pipes given that alluvial diamonds are almost depleted. Underground operations require huge investment and the joint venture partners were unwilling to invest into those expansion projects. To address this ZCDC would embark in underground mining for the conglomerates and kimberlitic pipes.

4.2 Structure of the Zimbabwe Diamond Consolidation Company (ZCDC)

4.2.1 Legal Status

The Committee was informed by the Minister of Mines and Mining Development that ZCDC is a subsidiary company under ZMDC and is similar in nature to other subsidiaries such Jena Mines, Sandawana Mines and Marange Resources. ZCDC was formed following the loss of mining rights by the former joint venture partners. This had been preceded by theinvocation of section 291 of the Mines and Minerals Act where the Secretary of Mines exercised his right of refusal to renew the licenses. This paved the way for Government to establish ZCDC, through the Companies Act and Zimbabwe Mining Development Corporation Act.

Some of the companies such as DMC, DTZ-OZGEO and Kusena agreed to the consolidation process but there was resistance from others that included Mbada Diamonds, Jinan and Anjin.

4.2.2 Shareholding of ZCDC

The initial plan by Government was that ZCDC's shareholding would comprise of all the mining companies that were operating in Marange with government retaining a 50% shareholding. ZCDC appointed five of the ten board members and the rest would be selected from among the former joint venture partners. Each joint venture partner would get shares based on the net value of assets and liabilities. Mbada Diamonds, Anjin and Jinan took the matter to court and lost first case. Government then resolved to expand its shareholding in ZCDC to a 100 per cent. Behind closed doors, bilateral negotiations were held between China and the government, resulting in Anjin and Jinan agreeing to a settlement whose matter is still before the Constitutional Court and the rest of the board members will be appointed once a determination has been made. ZCDC will also then be able to operate in all the mining concessions.

4.2.3 Corporate Governance

Currently, ZCDC has five board Members and the Permanent Secretary of Mines and Mining Development Professor F.P Gudyanga is the acting Chair. The Committee learnt that all the board Members hail from Manicaland. This is in violation of Section 194 (j) of the Constitution of Zimbabwe. Secondly, during the Committee's visit to Chiadzwa, it noted that almost 90% of the Management Executives of ZCDC were holding their positions inan acting capacity. According to the former CEO of ZCDC, Mr MarkMabhudhunone of them, including the acting CEO Dr Ridge Nyashanu , have any experience in the mining of diamonds.The management Executives that were relieved of their duties, two months into the consolidation process, had a combined total of 127 years of experience in the diamond industry acquired from well renowned companies such as De Beers.

4.3 Diamond Production atChiadzwa.

Production statistics from Marange diamond operations have been on the downward trend for the past five years, largely attributed to a number of factors which include:

I. Depletion of alluvial diamonds at most of the concessions;

II. Inadequate exploration to determine the quantities and values of the diamonds before formal mining operations began in 2009. The lifespan of the mining operations in Chiadzwa are unknown and current ZCDC operations are not supported by any geological exploration information.

III. The diamond recoveries at the diamond concessions have gone down. At the height of production in 2011, recoveries stood between 25 to 40 carats per tonne but at the time of consolidation this had gone down to between 5 to 6 carats per tonne.

IV. Inadequate investment to meet mining obligations. Most of the joint venture companies did not fulfil their investment agreements.

V. The Committee was informed that at the time of consolidation all the companies were insolvent, hence impacting negatively on mining operations.

VI. There is legal contestation between ZMDC and some of its former joint venture partners, hence ZCDC's operations have been restricted to two of the nine mining concessions.

ZCDC officials informed the Committee that their future plans were on ramping up production, through exploration and investment. The full throttle the company's annual production projections are for6 million carats. In 2016, ZCDC managed to produce just below a million carats. In 2015, before the consolidation process, approximately 2,3 million carats were produced by all the companies operating in Marange.

4.4 Operational Capacity of ZCDC

After the consolidation process was effected, ZCDC management was ordered by the Permanent Secretary of Mines and Mining Development Professor F.P Gudyanga to increase production volumes and according to the former company executives, these targets were unrealistic given the high operational costs and the low grade recoveries. The alluvial diamonds had depleted in most concessions and were near depletion in others. This did not make economic sense to the management that was in office at the time, but they were forced to comply.

After a 100s day into office, the former management team was dismissed, save for one person, Dr R Nyashanu and yet, some of them had signed 6 year contracts. Most of them were dismissed after undergoing a polygraph test, commonly known as a lie detector. The former employees were asked questions such as *'are you drunk'*, *'do you operate a syndicate[3]'*. The Management executives were not given any reasons for their retrenchment or dismissal. This may constitute an unfair labour practice as defined in Section 65 of the Constitution.

During the site visit, the Committee was informed by ZCDC officials that the company did not have adequate machinery and equipment. As a result ZCDC was hiring some of its mining equipment and machinery, and has contracted companies to work on some of its operations. To boost its operational capacity, ZCDC secured a loan from the Reserve Bank of Zimbabwe worth US$ 30 million for recapitalisation. The Company also managed to purchase equipment at an auction in January, 2017 worth US$7,5 million that previously belonged to Mbada Diamonds. The Committee noted

[3] Oral Evidence Session with the Former Employees of ZCDC held in July 2016

that the two mining operations of ZCDC relied heavily on diesel generators because there are not connected to the national power grid.

Furthermore, the Committee was informed by the Minister of Mines and Development that ZCDC has embarked into gold mining in Katshe Gatshe and has since purchased machinery and equipment for that venture. Although mining has not yet started, ZCDC will be at the centre of those operations.

In essence, ZCDC does not have a skilled human resource base, working capital, adequate equipment and machinery and working capital.

4.5 Diamond Prices

The Committee was informed by the acting Chief Executive Officer of ZCDC Dr R. Nyashanu, that the joint venture companies realised different prices for their diamonds. The average price stood at 47,29 American dollars. The prices realised by the diamond companies is revealed in the graph below:

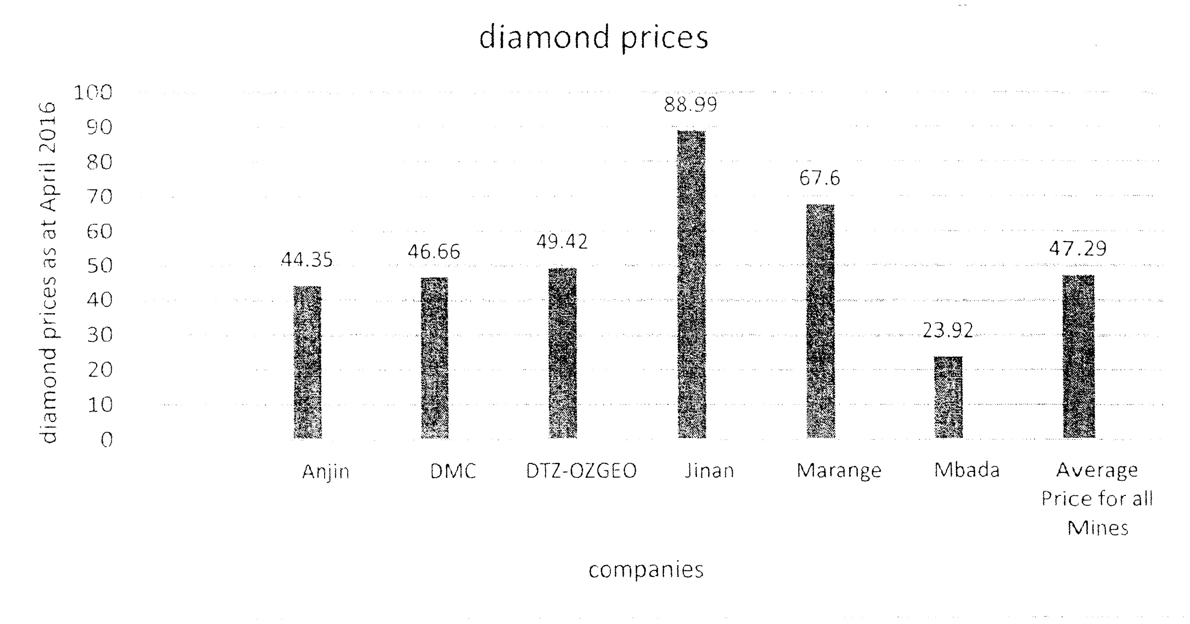

Figure 1: Diamond Prices (Source: Presentation by Dr Nyashanu to the Portfolio Committee during the Fact-finding Visit to Marange)

The acting CEO of ZCDC further highlighted that Mbada Diamonds had the lowest diamond prices yet owned concessions with the richest ore grades. Dr Nyashanu attributed the low prices to either illicit practices or to low grade recoveries.

4.6 Diamond Revenues Submitted to the Treasury

In the 2016 Budget Statement, the Minister of Finance laments the poor revenue inflows to the fiscus from the diamond sector when he states that *"there was greater economic impact from diamonds during times of uncontrolled alluvial panning than what is being realised following the introduction of formal diamond mining arrangements."*In the same vein, the former acting General Manager of the Minerals Marketing Corporation of Zimbabwe (MMCZ), Mr Richard Chingodza attributed the poor revenues to Treasury due to incapacity ofgovernment representatives that sat on the boards of the joint venture companies to access critical information such as production statistics, board minutes or audited financial reports.

The Permanent Secretary of Mines and Mining Development Professor F.P Gudyanga, told the Committee that the country lost diamond revenuesthrough leakages and smuggling and the loss will be quantified through a forensic audit being conducted by the Auditor General.

According to the Permanent Secretary of Mines and Mining Development Professor F.P Gudyanga , from 2010, Treasury has realised approximately 600 million American dollars as shown in the table below:

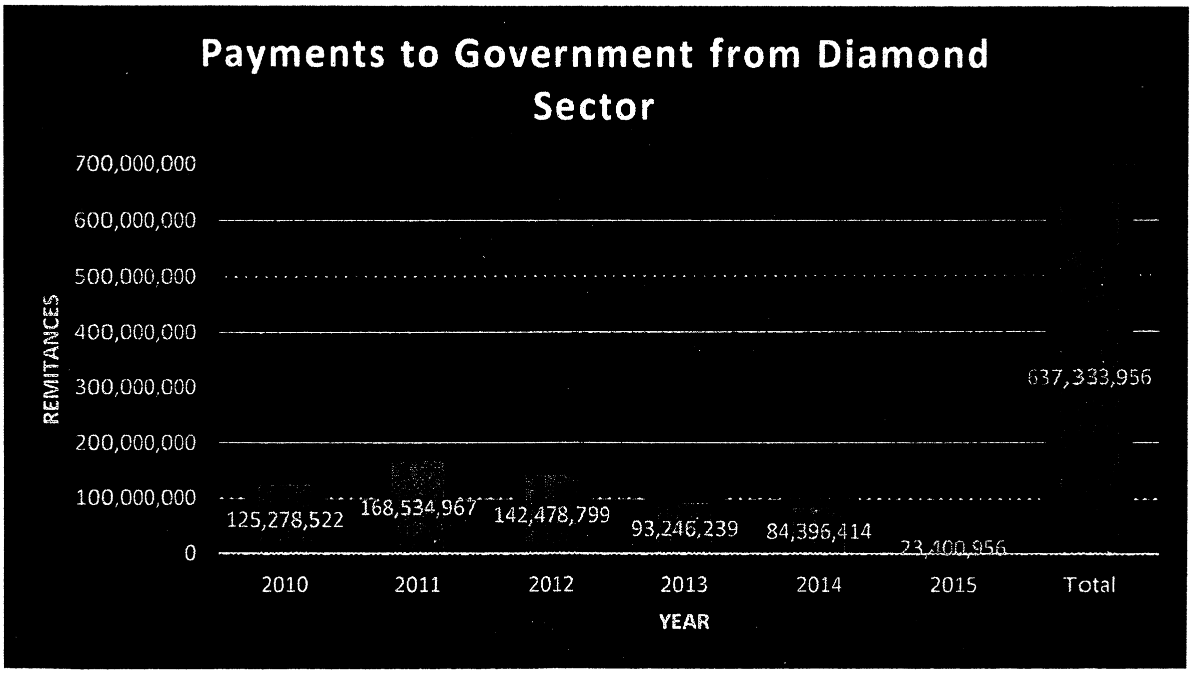

Figure 2: Payments to Government from Diamond Sector (Source: Presentation by Secretary of Mines at the 2016 AGM of Chamber of Mines)

4.7 Illicit Financial Out-Flows

The Committee received evidence from the former acting General Manager of MMCZ Mr Richard Chingodza of illicit financial outflows flows from the extractive sector. Some of these illicit financial flows were aided or facilitated by government officials, in clear violation of government accounting procedures and regulations.The MMCZ lost approximately four (4) million America dollars. The money was transferred to Pedstock, an agricultural company, which further transmitted it to an unknown recipient who resides outside the country. The Director of Pedstock, Mr Jackson Dror admitted before the Committee that he was being used as a conduit to transfer the money from MMCZ to the unnamed recipient.

The Former Acting General Manager of MMCZ was ordered to release this money by the Permanent Secretary of Mines and Mining Development, who is currently the acting board Chairperson of the parastatal. The invoice raised for the money was that it would be used for the Zimbabwe Republic Police (ZRP) Border Control and Minerals Unit operations in curbing leakages and smuggling of minerals.

The Permanent Secretary of Mines and Mining Development Professor F.P Gudyanga admitted to the Committee that the money was sent to the unknown recipient who is a foreigner and his identity could not be disclosed because it will jeopardise the State security operations aimed at curbing leakages and smuggling of minerals. Pedstock made cash payments to the unknown recipient because herefused to open a bank account. Pedstock received a commission for its services.

Furthermore, the Committee learnt that the Permanent Secretary of Mines and Mining Development Professor F.P Gudyanga had both personal and official links with Pedstock, where on several occasions he purchased agricultural equipment from the company.

4.8 Role of MMCZ in the Diamond Industry

The Minerals Marketing and Corporation of Zimbabwe, has the main responsibility of advising government on the marketing of its diamonds, however, the corporation has been facing a number of challenges in executing its mandate.

Since 2009, the parastatal is without a substantive general manager and since 2013 without a Board. The parastatal is being run by a one-man board, comprising of the Permanent Secretary of Mines and Mining Development Professor F.P Gudyanga and in 2015, he was paid 30 000 American dollars as board fees in violation of the MMCZ Act and basic principles of corporate governance. The board should have 6 to 10 members. So legally and technically MMCZ has no board and board fees should not have been paid to anyone. In the absence of a Board, the annual budgets of MMCZ have failed to get approval in violation of the Public Finance and Management Act, the MMCZ Act and the Audited Office Act.

Furthermore, the Parastatal has been unable to conduct strategic planning sessions to discuss critical issues, including government's intention to transform it into an exploration company.

The Committee was also informed that MMCZ has paid for some of the Ministry of Mine's expenses, activities and programs, yet these should be supported by Treasury. Some of these payments have found their way into personal accounts, and an example was cited of payments made into the account of Mr Nzarayapenga whose credentials the Committee did not find but was alluded to during an oral evidence hearing with the Acting General Manager Mr Richard Chingodza.

During the fact-finding mission to Marange, the Committee noted the absence of MMCZ at the mining operations yet its officers are visible in other mining operations which include platinum where government does not necessarily have a controlling shareholding.

4.9 Value Addition and Marketing of Diamonds from Marange

The Committee was told by the former CEO of ZCDC, Mr Mark Mabhudhu that the country lost a lot of diamond revenues before 2014 due to lack of value addition. The marketers of Marange diamonds, never fully understood its footprint and after feedback from the market, it became apparent that the country had sold some very unique diamonds with fancy colours for a song. The diamonds were not being properly sorted, hence it was easy for them to be undervalued.

The cleaning and sorting of diamonds from Marange is undertaken by a company known as First Element. The Committee was informed by Mr Richard Chingodza that First Element is a foreign company that was hand-picked by the Permanent Secretary of Mines and Mining Development. Due diligencewas not conducted to ascertain its capability and credibility. In the course of time, management at MMCZ noted operational deficiencies which they highlighted to the Executive but no action was taken and the management of MMCZ was threatened not to interfere in the affairs of First Element.

The first anomaly, was on the losses experienced in the cleaning of diamonds. This was noted following a comparative analysis with a former company Kenako, which is an indigenous company that used to clean the diamonds.

Secondly, an arrangement was made for the construction of a cleaning facility for the diamonds through a build-operate-transfer arrangement where First Element won the bid yet it had inflated the costs in comparison with other bidders. MMCZ management disapproved of the agreement, the Permanent Secretary of Mines and Mining Development Professor F.P Gudyanga was not happy it hencecreating tension between the two parties.

Furthermore, management of MMCZ observed that when auctioning diamonds, First Element would claim to have invited 80 or 100 companies when in reality there just a few buyers, less than five. Upon scrutiny it was discovered that one company would be just 20 or more people passing out as individual companies. This created room for collusion and transfer pricing prejudicing the country of substantial revenues.

Another anomaly, was on the auditing of MMCZ's books. The Committee was informed that the Permanent Secretary of Mines and Mining Development Professor F.P Gudyanga hand-picked an audit firm to scrutinise MMCZ books. However, the audit firm was not appointed by the Auditor General's (AG)office and the AG was not even aware that such an operation was taking place. As a result the company's financial records have been compromised.

4.10 Relocated Mining Community at ArdaTransau

When diamonds were discovered in Marange, several thousands of families were relocated to Arda Transau, a farm on the outskirts of Mutare city. The relocation program began during the era of the joint venture agreements. When it came into existence in 2015, ZCDC has managed to relocate 23 families. However, the company inherited several unfulfilled obligations by the former joint venture companies. The Committee had an opportunity to visit and interact with the relocated families. These were some of their concerns:

i. **Housing defects:** Some of the home owners were experiencing housing defects such as cracks on the floors and walls. This was attributed to poor workmanship and the fact that some of their houses were constructed on wetlands.

ii. **Relocation Allowance/Disturbance Allowance**: There were complaints by some of the families that they did not receive their relocation allowance, which was supposed to be given on an individual basis rather than per household. Most of the households are in polygamous relationships.

iii. **Inadequate Space for Expansion**: Complaints were raised that children who had reached the age of majority or had married were failing to get land to build their own homes. The half-a—hectare plots they were allocated are inadequate to meet their needs.

iv. **Unemployment**: The youth complained they had no sources of livelihood in the area. This was attributed to lack of capital to start income generating projects.

v. **Right to Water**: Some of the residents complained that portable water had been disconnected to their homesteads. Each household has to pay $8 per month but due to lack of sustainable livelihoods, very few households have the capacity to pay these bills. For households without tap connections, they walk long distances to access water from wells, some of which is not safe for drinking.

vi. **Lack of Houses:** There are some families who were relocated but have not yet been allocated houses. There were allegations that some people were are renting out their houses to persons from elsewhere other than Marange.

vii. **Compensation for Property:** A complaint was raised by a former shop owner who had not been compensated for loss of property which he left behind in Marange. The relocated families also highlighted there were not aware of valuation results oftheir properties which they left behind in Marange.

viii. **Lack of Feedback:**The community expressed disappointment in that government agencies and the mining company did not give feedback regarding their concerns.

In spite of these challenges, the local authority of Mutare, is co-ordinating an irrigation project, which seeks to empower the community in market-gardening. The project has been constrained by lack of financial resources.

5. Committee Observations

These were the observations of the Committee:

5.1 Purpose of Consolidation:

The purpose of consolidating diamonds mines, whilst it is a noble idea, need to be supported by best international practices. In regional countries such as Botswana and South Africa, their diamondpolicy framework allows for independent players to participate in the sector. What was lacking in the former arrangement, with joint venture partners, was strong monitoring by the government representatives who sat on the company boards.

5.2 Structure of the ZCDC

5.2.1 Legal Status

ZCDC is not properly constituted. This is a private company formed under the Companies Act and is supposed to superintend over such an important national resource.Secondly, Section 315(2) of the Constitution clearly highlights that *"an Act of Parliament must provide for the negotiation and performance of....concessions of mineral and other rights to ensure transparency, honesty, cost-effectiveness and competitiveness'.* The Ministry of Mines missed an opportunity to correct the challenges it is facing in Chiadzwa.

5.2.2 Corporate Governance

It is unacceptable that ZCDC should be a subsidiary of ZMDC, when it is clear that the Board of ZMDC has no control over the company as revealed by its absence during the Committee's visit to Chiadzwa. There is also a conflict of interest in that currently ZCDC is chaired by the Secretary of Mines and ZMDC Board oversees that subsidiary, yet the ZMDC board is answerable to the Permanent Secretary of Mines and Mining Development. Such an arrangement clearly violates good corporate governance principles.

Secondly, nepotism and tribalism was the criteria used in appointing the board of ZCDC. All of them hail from Manicaland and there is no illustration of gender representation. This clearly violates sections 17 and 18 of the Constitution which promote gender balance and fair regional representation respectively. Furthermore, it is improper that ZCDC should be run by a management team that does not have any experience in diamond mining. Surely, the country should not expect positive growth and meaningful returns to emanate from such an operation.

5.3 Diamond Production at Chiadzwa

The six (6) million carats per annum projections are possible only if the company acquires investment for exploration. Right now, no one knows the quantum or the values of the diamonds in Chiadzwa. Without adequate geological information, ZCDC cannot outline strategic goals for the future. Secondly, in proper governance system, management is supposed to advise the Board on operational issues, but instead in this case the Secretary of Mines is directing the mining operations.

The Committee would also like to express its disappointment on low productivity at the mines, more particularly due to the fact that it failed to see any diamonds during its site visit. The Committee had high expectations that after rigorous physical searches, it would see the diamonds.

The Minister of Finance and Economic Development highlights that government realised better revenue during times of uncontrolled panning, highlighting the significance of artisanal and small-scale miners to the growth of the sector. Other countries, especially in West Africa have developed sustainable models for integrating artisanal and small-scale miners into the diamond sector. The Minister of Mines and Mining Development needs to consider such models, as a way of empowering and creating employment for surrounding communities.

5.4 Operational Capacity of ZCDC

During the fact-finding visit, the Committee observed that ZCDC does not have adequate equipment and machinery and has to hire some of it. It is inadequate for ZCDC to borrow from the local financial market given the high interest rates. ZCDC has to scout for investors but there is low investor confidence, after the ouster of the joint venture partners. It will be difficult for the company to attract the much needed investment. It is also important for Government to be consistent in the implementation of its policies. This is one area that has been raised by investors, in various mining fora such as the Regional Mining Indaba held in Cape Town annually. Secondly, the Committee is concerned that ZCDC is now venturing into gold mining operations in Katshe Gatshe yet its operational capital is very thin.

5.5 Diamond Prices and Revenues to Treasury

The Committee awaits for the results of the forensic audit to determine the extent to which the country may have been prejudiced by the former joint venture partners. Poor revenues to Treasury should also be attributed to delays taken by government to set up cleaning and sorting facilities. A lot of valuable diamonds were sold for a song. Secondly, the blame on the poor revenues and the disparities in diamond prices should be apportioned to both Government and the former joint venture companies. Government had representatives that sat on the Boards of the joint venture agreements and were there to advise government on policy issues or anomalies which were hindering the State from realising its objectives.

5.6 Illicit Financial Outflows

It will be very difficult to conduct an audit trail on some of the funds that were siphoned from MMCZ. Pedstock made cash payments to its unnamed source for services rendered. It is clear that government accounting systems were violated and there are no prospects for MMCZ to recover the US$4 million that it lost.

Secondly, State security matters should be financed by the relevant agency, under the intelligence services. It was improper for the Permanent Secretary of Mines and Mining Development Professor F.P Gudyanga to siphon MMCZ of its resources and expect it to perform effectively afterwards. It defeats the whole purpose of Government's intentions of developing turnaround strategies to revamp or rebuild ailing or dead parastatals.

5.7 Cleaning, Sorting and Marketing of Diamonds

The Committee noted with concern the allegations of diamond lossesexperienced during the cleaning, sorting and evaluation of diamonds. One of the functions of MMCZ is to advise the Minister on important issues such as this one, so the Minister should take seriously matters of this nature. It is not proper to disregard concerns raised by an institution which has been established to safeguard national interests of government and defend a private company which might not have the interests of the nation at heart.

5.8 Relocated Families

The unfulfilled expectations of the relocated families can only be met once ZCDC is fully operational and making a profit. ZCDC has inherited a number of liabilities from the former joint venture partners, such as wages. ZCDC's financial position is very precarious and cannot be expected to meet the concerns of the communities anytime soon.

5.9 Property Rights Issues

Section 72 (2) of the Constitution states that *"every person has the right, ...to acquire, hold, occupy, use, transfer, hypothecate, lease or disposes of all forms of property, either individually or in association with others"*.The grounds for dispossessing the mining companies of their concessions is weak and indefensible. These were joint venture agreements and if the lease had expired, surely

ZMDC could have easily reacted to rectify the anomaly. It appears this was just a weak excuse to get rid of the joint venture partners. It cannot be denied that the consolidation process put a dent on investor confidence into the mining sector. It is important that property rights are respected so that it does not affect investment opportunities for the entire mining industry. When the Committee visited Marange it saw immovable property such as offices, airstrip, employee houses, watch towers, machinery which was lost inadvertently by the joint partners and will now be inherited by ZCDC without paying any compensation.

5.10 Workers' Rights

These need to be respected in line with the labour laws of the country. It defies logic that the Board of ZCDC retrenches some of its workers and then immediately replace those positions. Retrenchment entails downsizing operations. The former management Executives of ZCDC were relieved of their duties after undergoing a polygraph test. The questions and manner in which the polygraph was applied clearly violates fundamental rights particularly section 51 of the Constitution which talks about the right to human dignity. In other countries, polygraph tests are permitted but adhere to fundamental human rights. In practice, a polygraph test cannot be used as a basis for a finding of guilt, it is used to support other evidence, but in this case, the polygraph tests were used to find the eleven (11) interviewees guilty and a strong reason for dismissal. Zimbabwe's jurisprudence need to be developed on the application of polygraph test in order to protect the rights of workers.

5.11 Political Interference

The Committee noted with concern that there is too much political interference in the mining of diamonds in Marange particularly by the Permanent Secretary of Mines and Mining Development, Professor F.P Gudyanga. Without a proper legal framework which outlines the responsibilities of the various State actors in the diamond sector, the current system is porous and being abused. As a result the country will not be able to realise meaningful returns from the sector. Whilst, the Diamond Policy outlines government's vision in the diamond sector, it is not binding on anyone. Furthermore, it is unacceptable that the Secretary of Mines is directly involved in operational issues at ZCDC, at MMCZ, at ZMDC and at other institutions that a directly linked to the mining industry. The workload is too heavy for one person and this had negative impacts on operations of some of this entities.

6 Recommendations

	Resolution	Action	Timeline
6.1	ZCDC should be properly constituted.	The Ministry of Mines and Mining Development should bring before Parliament a bill to regulate diamond mining operations by ZCDC in line with section 315 (2)(c) of the Constitution.	Before end of December 2017
6.2	The Board of ZCDC should be dissolved.	Any board appointments by ZMDC or by the Minister of Mines should be in line with sections 17 and 18 of the Constitution which promotes fair regional representation and gender balance.	On-going.
6.3	A Board for MMCZ should be appointed and the process of selecting a substantive general manager for the parastatal concluded.	The Minister of Mines should initiate the process for the appointment of the board of MMCZ and its substantive general manager in order to promote good corporate governance at the parastatal and in the mining sector.	Before end of June 2017
6.4	Mining policies for the diamond industry should be clear and consistent in order to attract investment both foreign and local.	The Ministry of Mines needs to come out clearly on the position of government pertaining to foreign direct investment into mining concessions in Marange	Policy should be outlined by June 2017.
6.5	Competition should be promoted in the production of diamonds in Zimbabwe.	The Ministry of Mines should allow independent players to participate in diamond production in various parts of the country, including the Marange concessions.	By December 2017.
6.6	Investment is needed for exploration of diamonds in Marange.	The Ministry of Mines need to create a conducive platform that promotes investment into exploration to determine the quantum and values of diamonds in Marange. Evidence-based information will strengthen government's ability to make decisions on diamonds in Marange.	On-going
6.7	ZCDC should solely focus on diamond production.	The Ministry of Mines should ensure that ZCDC focuses only on diamond production and cease all operations of gold mining in KatsheGatshe.	Within a month of tabling this report.
6.8	Illicit financial outflows from MMCZ should be thoroughly investigated.	The Auditor General, the Anti-Corruption Commission and the Zimbabwe Republic Police, must investigate these illicit financial outflows.	Before end of June 2017.
6.9	Due diligence should be conducted on companies to be	MMCZ should ensure public tenders forthe cleaning, sorting and buying of	On-going.

	selected for cleaning and sorting of diamonds as well as on buyers who attend the domestic diamonds auctions.	the country's diamonds are floated and due diligence is followed in the selection process in order to minimise leakages and collusion in pricing of the gems	
6.10	Allegations of diamond losses through cleaning and sorting by First Element should be investigated.	A Commission of inquiry should be appointed by the Minister of Mines to ascertain if the country has been prejudiced by First Element and give feedback of its findings to Parliament.	Before June 2017
6.11	MMCZ officers should have representation at all diamond operations including those in Marange.	The Minister of Mines should ensure that all MMCZ officers are visible at diamond mining operations in Marange in order to promote transparency and accountability.	On-going.
6.12	ZCDC should be managed by skilled personnel with knowledge of the diamond sector.	Appointments to serve on ZCDC should be based on merit, so that State participation in the industry is justifiable.	Within three (3) months of tabling this Report.
6.13	Results of polygraph tests should not be used as a basis for finding one guilty or dismissal of workers.	The Ministry of Mines should reinstate workers that were dismissed due to polygraph test because the practice is not supported by the labour laws of the country.	By June 2017.
6.14	Property rights in the mining sector should be respected in line with section 72(2) of the Constitution.	The Minister of Mines need to ensure that property rights of investors in the mining sector are respected in order to build confidence that Zimbabwe is an investment friendly destination. Furthermore, companies that lost their properties as a result of consolidation should be compensated.	By December 2017.
6.15	Relocated families at ArdaTransau should be compensated for loss of property and be given their relocation allowances on an agreeable formula.	ZCDC should ensure that all relocated families that lost their properties are compensated fairly and relocation allowance should take into account families in polygamous relationships.	By June 2017.
6.16	New land should be identified to cater for population growth at ArdaTransau.	The Ministry of Local Government need to address the shortage of land at ArdaTransau, so that families live in socially and culturally acceptable environments.	Before end of June 2017.
6.17	Corrective action should be taken on homes that have developed defects.	Ministry of Local Government should institute an inspection of houses with defects at ArdaTransau to assess the safety and well-being of the tenants. Furthermore, corrective action should be taken on those buildings	Before end of December 2017.
6.18	A policy should be developed to integrate artisanal and small-	The Ministry of Mines needs to copy best international practices, especially	Before end of December

	scale diamond miners who are operate illegally in Marange.	from countries in West Africa and come up with a policy position in order to integrate artisanal and small-scale miners in the mining of alluvial diamonds.	2017.
6.19	Government and political interference in mining of diamonds in Marange should cease forthwith, particularly by the Secretary of Mines	The Civil Service Commission should recall the Permanent Secretary of Mines Professor Gudyanga in line with section 205 of the Constitution. The grounds for dismissal include;his role in aiding illicit financial outflows, poor corporate governance and at times his position has been conflicted.	Within a month of tabling this report.
6.20	Modern equipment and technology should be installed for searches in sorting areas in order to curb leakages.	ZMDC should invest in modern equipment for diamond detection rather than conducting body searches which an archaic method of control.	Before December 2017
6.21	State participation in the diamond sector should be minimal but the marketing of diamonds should be centralised and remain the preserve of the State.	The Ministry of Mines should ensure that marketing of diamonds is centralised and is in the hands of the State.	Before December 2017

7 Conclusion

The diamond industry in Zimbabwe need to be supported by strong and consistent policies and a sound legal framework. This should also be buttressed by the observance of good corporate governance principles by the implementers of these policies and laws. In that way Treasury and the country will be able to experience positive socio-economic returns from the diamond industry as being experienced in the neighbouring countries.