HOW TO REVIVE THE GEMS & JEWELLERY INDUSTRY IN INDIA

AND BUILD ON ITS EMPLOYMENT AND REVENUE POTENTIAL

Compiled by the DNA Policy Team

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A DNA Policy Initiative

Preface

dna decided to do this Policy document for several reasons.

For several years, dna has been tracking the diamond industry (a brief list of articles is given on the last two pages) and has reported on the manner in which the profit margins of this trade have been squeezed by overseas mining companies. Since India produces very few diamonds of its own, and also because almost all diamond mining companies are overseas, India has been compelled to import diamond roughs.

India is the largest cutting and polishing (C&P) centre in the world, and hence commands tremendous influence in this industry. But the mining sector has continually increased the price of diamond roughs, even when the market has been unable to match the C&P industry with corresponding price increases. Thus the Indian C&P industry has been squeezed out of margins, often forcing some industry players to adopt unfair and illegal methods to shore up their profit margins.

The only answer lies in creating alternative sources of supply of rough diamonds. And this is where the lab-grown diamond industry becomes immensely relevant to India.

Unfortunately the diamond trade lobby appears unwilling to embrace lab-grown diamonds – perhaps because of tremendous pressure from the diamond mining industry.

Some diamond importers first tried to scare consumers -- and even make the diamond markets skittish -- by claiming that lab-grown diamonds were being surreptitiously mixed with earth-mined

diamonds. Fortunately, that has been put to rest recently. The heads of both the Gems and Jewellery Export Promotion Council (GJEPC) and the Surat Diamond Association have gone on record stating that all such claims were rumours.

The GJEPC is now trying to persuade the government to impose heftier import duties on lab-grown diamond imports – higher than those imposed on mined rough imports – in an attempt to blunt the appeal of this new source of rough diamonds.

That could be a big mistake, because what the industry needs is access to newer sources of roughs, and roughs that are less expensive. Lab-grown diamonds are a major solution towards addressing both these issues.

At stake are around 8 lakh jobs in the diamond sector (now down to 3 lakh) and around 35 million jobs in the jewellery sector – many diamonds get studded in gold and silver jewellery.

India needs the jobs. It needs to consolidate its already formidable position in the gems and jewellery sector.

dna believes that this policy document would be of use to the government.

R.N. Bhaskar
Consulting Editor – dna

Please refer to
Annexure: Frost and Sullivan: Unlocking Future of diamond industry by 2050, Page 15
RBI Task Force Report

Diamonds occupy a key place in India's export competitiveness.

India today is the largest cutting and polishing centre for diamonds in the world.

But over the past decade India has begun slipping in this sector. As the subsequent pages will show, India is plagued by three factors.

(a) There is a reduction of 30% in India's cut and polished (C&P) exports. There is growing concern that some prominent members of the diamond trade have been promoting their own C&P centres in other parts of the world. The benefit, as can be seen later, has gone to diamond miners, especially De Beers, the largest producer and seller of diamond roughs in the world.

(b) Profitability for India has kept on eroding, as miners have increased the price of diamond roughs, and the markets have been unwilling to pay a corresponding increase in the price for C&P diamonds.

(c) As a result, the biggest casualty has been a skilled diamond workforce, whose numbers have tumbled from almost 8 lakh to around 3 lakh. At a time when employment and "Make in India" are critically important for India's resurgence in the world, measures have to be taken to prevent India from losing out in the diamond trade.

This paper suggests measures that must be taken to strengthen this industry, and ensure that it remains a force to reckon with, and actually augments its workforce levels.

Threats to Industry are on 4 counts

1. Depleting World supply of mined diamonds
2. Diversion of rough Supplies to other centers
3. Diminishing profitability leading to financial malpractices
4. Deliberate strangling of non-traditional rough supply sources

Contrary to what many say, the stock of mined diamonds is depleting rapidly in the world.

This has two consequences

First, it will mean fewer diamonds for cutting and polishing, which in turn means less diamonds and less business for India.

Secondly, it means an inevitable escalation in the prices of mined diamonds. This can be seen from the data provided in the following pages.

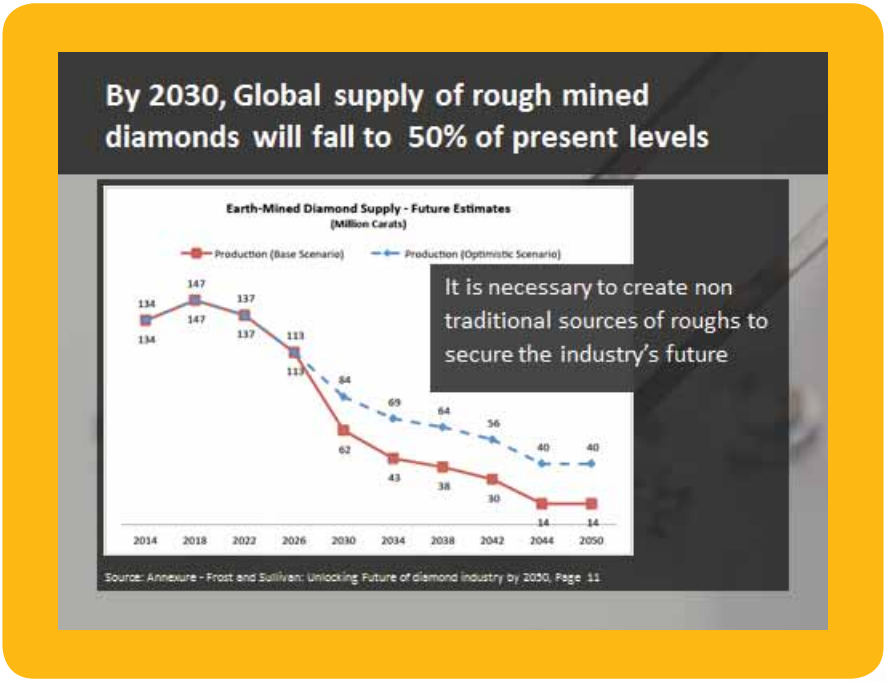
Together, they mean a further strangulation of the Indian diamond trade.

Compounding this is the decision of major diamond miners to sell roughs to parties other than India. This could worsen India's plight.

The closure of bank finances by international banks to the Indian trade adds to this problem.

All these combine to propel some diamond traders in India to adopt malpractices that should not have taken place at all.

Moral: If the right policies are put into place, it will make the Indian diamond industry less vulnerable to the games that the diamond mining industry plays.



Please refer to the Frost and Sullivan report: Unlocking Future of diamond industry by 2050, Page 11

The mining industry has been trying to tell India's policy makers that there is no shortage of mined diamonds.

They claim that diamond rough supply will increase in the coming years.

They may be right, but only in a limited sense.

Diamond rough supplies could increase for a few years, but then are slated for a precipitous decline as the chart compiled by Frost & Sullivan shows.

Therefore, it is imperative to nurture non-traditional sources of diamonds right away, before the crisis leads to a further loss of jobs and export earnings for India.

Our two key recommendations are:

- Focus on new sources of diamond rough import, even non-mined diamonds. They ensure a second source of supply on the one hand, and the scope for higher margins for the trade on the other.

- The government must ensure that mined diamonds are not given preferential treatment over non-mined or ethical diamonds.

Please refer to the Bloomberg Report - Jewelers Going Straight to Miners as Diamonds Wane (http://www.bloomberg.com/news/articles/2014-12-19/jewelers-going-straight-to-miners-as-diamonds-wane-commodities)

Frost and Sullivan: Unlocking Future of diamond industry by 2050, Page 14

The past decade has been witness to three major developments that threaten to change very future of the Indian diamond industry.

First, major diamond mining companies like De Beers, Rio Tinto and Alrosa have entered into direct supply agreements with retailers like Tiffany (USA) and Chow Tai Fook (China). These chains, in turn, give diamonds for cutting and polishing to smaller firms on a job-work basis, thus squeezing their margins enormously.

Second, major Indian diamond exporters have set up their own beneficiation centres often in partnership with diamond mining companies in the very countries where the diamonds are being mined. This means that there India gets fewer diamonds for cutting and polishing.

Third, many Indian diamond exporters have been found to be re-exporting diamond roughs – possibly to their own diamond beneficiation centres in other countries. DNA's investigation, published on 23 December 2014, showed how roughs worth $9.6 billion (over Rs.57,600 crore) had got re-exported from India over the last 10 years.

It is imperative that the government encourages competition among sources that can supply diamond roughs to India.

Profit margin of Indian Diamond Industry is diminishing...

1. Industry struggling with PBT in the range 0.3% to 2.3%[1]
2. Price of roughs has increased by 72% since 2008[2]
3. Market forces have allowed the price of cut and polished to increase at only 36% CAGR since 2008[2]
4. Miners make more profit at the cost of Indian Industries

"... I am not responsible for the margin of my customer... I have a business. I am not a banker... I am not a supporter of customers..."[3]

- De Beers CEO Philippe Mellier

Source:
Report Of The Task Group For Diamond Sector To Make India An "International Trading Hub For Rough Diamonds",Feb 2013, Page 36, http://commerce.nic.in/publications/Report_Task_Group_Diamond_Sector_11thFeb2013.pdf?id=25
2014 Bain Report- Rough and Polished Diamonds Prices, http://www.bain.com/publications/articles/global-diamond-report-2014.aspx
JCK Inteveiw of De Beers CEO: http://www.jckonline.com/blogs/cutting-remarks/2015/01/13/debeers-ceo-we-take-new-reports-undisclosed-synthetics-very-seriously

http://www.bain.com/publications/articles/global-diamond-report-2014.aspx

The chart alongside (http://www.bain.com/publications/articles/global-diamond-report-2014.aspx) clearly shows that though prices for diamond roughs have kept on increasing year after year, the markets haven't been able to match the increase of prices effected by the mining industry.

In other words, the margins available for diamond C&P industry have kept on diminishing year after year.

Philippe Mellier, the ceo of one of the major diamond miners (and seller) De Beers, is on record stating ". . . . .I am not responsible for the margin of my customer. . . I have a business. I am not a banker. . .I am not a supporter of customers"

That is why, it is necessary to look for alternative sources of diamond rough supply. Lab-grown diamonds are a good alternative. They can help reduce India's vulnerability to the reduced supply and higher prices. They can also help the trade regain their profit margins

...forcing business owners into financial malpractices to manage margins

1. Hawala, Over-invoicing, Round-tripping[1]
   - **Rs 5,300-crore hawala scam** - November, 2015, the **ED** had filed a **charge-sheet** against a **Surat-based trader**
   - $37.9 billion (**Rs.2.3 lakh crore**) - **Difference** between what **actual exports** were and what the **exports could have been** over the past 10 years
2. Misuse of Banking Finance
3. In its 4 decades of existence, the industry has not-yet become self-sustainable – has been forced to commit hara-kiri by being squeezed out of profit margins

Source: DNA reports on excise evasion and hawala (See attached articles)

How much of illegal money does the diamond industry generate?

A DNA investigation in December 2014 showed that between 2007 and 2014 import of rough diamonds exceeded export by $14.9 billion (http://www.dnaindia.com/analysis/column-policy-watch-dark-side-of-the-sparkle-2045797). .

If standard, widely acceptable, value-added norms are applied, the mismatch (between actual exports and assumed value of exports) amount to a painful mind boggling figure of $38 billion over the last decade.

There is evidence of large scale misuse of banking finance. Investigations conducted by India's enforcement directorate (http://www.dnaindia.com/mumbai/report-rs-15000-crore-remittance-scam-hits-six-banks-2050352 and http://www.dnaindia.com/mumbai/report-ed-on-the-prowl-as-india-loses-crores-in-trade-based-money-laundering-2036724) Some of the accused include leading members of the diamond trade, and present and past members of the GJEPC.

This needs to be remedied.

One way would be to provide a fair and even ground for all diamond imports, both mined and non-mined. That would allow more competition, and reduce the cost of rough imports into India. It would allow the diamond C&P trade to increase its margins, and help consolidate India's position further in the global diamond industry.

Please refer to the Bloomberg report - Jewelers Going Straight to Miners as Diamonds Wane (http://www.bloomberg.com/news/articles/2014-12-19/jewelers-going-straight-to-miners-as-diamonds-wane-commodities)

Frost and Sullivan: Unlocking Future of diamond industry by 2050, Page 14

As mentioned earlier, many diamond miners have begun diverting their roughs to large retail chains. Earlier, diamond miners used to supply these roughs to India, which in turn supplied them to retail chains.

Some diamond mining companies have set up diamond beneficiation centres in their own countries (India does not produce sizeable quantities of mined diamonds).

Both ensure less business to India.

That is why it is imperative that India starts wooing non-mined diamonds to ensure that the C&P industry does not become extinct in this country.

One source of non-mined diamonds is the rough that is 'grown' in a laboratory. They are called 'grown" because they require a diamond 'seed' around which pure carbon atoms are allowed to coalesce and settle, under controlled conditions of heat, pressure and time.

In other words, the same forces used by Mother Nature to create diamonds, are harnessed in a laboratory, to give birth to lab-grown diamonds.


What are Lab-Grown/Cultured Diamonds?
1. Real Diamonds - Purest form of rare diamonds (IIa quality)
2. Grown above earth
– by subjecting native carbon sources
– under conditions identical to found inside earth
3. New category in Gem Industry as - Ethical , Conflict-Free and Environment-friendly source
4. Breakthrough material for Hi-tech applications – Quantum Computing, Electronics, Medical, Aviation etc.
Source:
Annexure: Frost and Sullivan Report: Grown Diamonds - Technology Impact Assessment

A lab-grown diamond is nothing but a real diamond – the purest form of the rarest of quality diamonds, which are nomenclatured “IIa diamonds’ by the diamond trade.

As mentioned earlier, it is grown above the earth, without scarring nature through needless mining, by subjecting native carbon sources to conditions identical to those created by Mother Nature.

The lab-grown diamond is also referred to as an ethical diamond. It is conflict-free, without the taint of blood diamonds that mined diamonds are often accused of.

Blood diamonds

"A good turnout means we have plenty of people to leaflet and engage with the public. The public were genuinely moved to learn of the plight of the Samoudi family and horrified that the HM The Queen was embroiled in this war crime by her association with its paymaster, the Steinmetz company."

http://www.inminds.com/article.php?id=10549

'Blood diamonds' is a phrase popularized by a move by the same name. But its existence is owed to practices introduced by De Beers almost fifty years ago.

A better understanding of how this was accomplished can be got from Jay Epstein's book "Death of a Diamond" (also available at http://www.edwardjayepstein.com/diamond/chap14.htm).

It describes how, -- in December 1953 -- Sir Ernest Oppenheimer appointed Sir Percy Sillitoe, who was earlier the head of the British counterespionage service known as MI-5, to create a system which could stop independent producers (often referred to as smugglers) from selling diamonds in the open market.

Those who did not accept the price offer made by De Beers and its associates were beaten into submission, killed, mugged or even ransacked.

That is why the Kimberly Process – supported by De Beers – was ironic. It sought to taint other countries selling rough diamonds to India as being guilty of peddling 'blood diamonds'.

As a demonstration in London in June 2012 protested against Steinmetz for peddling 'blood diamonds' supplied to this firm by De Beers.

Miners deliberately call Grown Diamonds "Synthetic" to categories them as fake

1. Miners monopoly is threatened because of a new source
2. Calling Grown Diamonds "Synthetic" deceives consumers into believing they are fake diamonds like moissonite and CZ

" .... the term 'synthetic' is a potentially confusing term i.e., consumers associate synthetic diamonds with imitation stones..."[1]

- Federal Trade Commission, United States, 21 July 2008

1. This deceptive practice is targeted at breaking the Grown Diamond Supply before it establishes itself

Source:
Federal Trade Commission letter denying JVC Petition (See attachment)

Grown diamonds are Real and not "Synthetic"

1. Diamond growth involves
   - rearrangement of pure carbon into tetrahedral structure
   - resulting in formation of another native form of Carbon which is Diamond
2. Synthesis is combination of
   - two different elements or compounds into a third entirely different compound
   - which may or may not exist naturally.

Earth-mined diamond players have tried to malign the lab-grown diamond industry by calling its stones "synthetic" and have accused it of "mixing" lab-grown diamonds with earth-mined diamonds.

Both clams are misplaced.

As the US Federal Trade Commission stated in its order of 21 July 2008, " .... the term 'synthetic' is a potentially confusing term i.e., consumers associate synthetic diamonds with imitation stones..."

A copy of this order can be found on page 82 of this report.

Second, as the subsequent pages of this report will show, mixing has never taken place.

Third, both the Surat Diamond Association and the GJEPC have now come on record stating that all allegations of "mixing" were just "rumours" .

Are these babies synthetic?

1978: First Test-tube baby Louise Brown

2012: Louise Brown, holding her twins

5,000,000 Test-tube babies born till today

Would you call them "Synthetic"?

Source: http://betterdiamondinitiative.org/lab-grown-diamonds-real-selling/

A very good analogy can be found from the graphic reproduced alongside and sourced from Source: http://betterdiamondinitiative.org/lab-grown-diamonds-real-selling

Lab-grown diamonds, as pointed out by industry players, is similar to growing a test-tube baby.

Both begin with a human intervention and then Nature is allowed to take its course.

GJEPC spreading rumors of "Undisclosed Mixing" of Grown Diamonds with Mined ones

1. GJEPC office bearers promoting unsubstantiated rumours about "Undisclosed mixing" in Indian Media since 2012
2. Not a single case of mixing has been documented/filed anywhere in India

"No diamonds manufacturers are involved in the diamond mixing incidence as per our information. There were fake rumors in the market about companies mixing lab grown and mined diamonds"[3]

- Dinesh Navdia, President, Surat Diamond Association
January, 2015

Source:
1. DNA Reports – See attached articles
2. http://betterdiamondinitiative.org/exclusive-diamond-mixing-has-never-taken-place-surat-diamond-association/

GJEPC – a quasi-government body -- has a history of working to protect interest of Miners

1. GJEPC – not working in the interest of the Indian diamond industry
2. Sidelined HDCPL (a GOI-De Beers JV), formed to supply roughs to small & medium manufacturers , in major deals
3. Supported De Beers in weakening HDCPL. De Beers diluted stake by 26% for $3 Mn and demanded $5.5 Mn for disputed VAS services
4. International Diamond Trading Company failed in spite of out of the way benefits from GOI

Source: Hindustan Diamond Company Private Ltd. SMERA Rating Report (See Attachment)

GJEPC is a quasi-government body which has often promoted the interests of diamond miners over those of India's.

A DNA investigation report published on 7 July 2014 confirmed all this ("GJEPC lobbies with government to stall entry of lab-grown diamonds" http://www.dnaindia.com/analysis/standpoint-pre-budget-analysis-gjepc-lobbies-with-government-to-stall-entry-of-lab-grown-diamonds-2000246).

GJEPC's present and past office bearers have been identified by the Enforcement Directorate of having evaded customs duties and engaged in hawala transactions. Investigations are currently underway.

According to a SMERA credit rating report (see page 80 of this report), GJEPC was also responsible for weakening Hindustan Diamond Company Pvt Ltd – a De Beers- Govt of India joint venture). This company was supposed to ensure and promote supply of cheap diamond roughs to India's C&P industry. De Beers eventually diluted its stake for $3 million, and also demanded another $5.5 million as compensation for disputed VAS services.

Today, GJEPC is trying to prevent the supply of less expensive roughs from the lab-grown diamond sector by pushing for a higher duty on import of such stones. As mentioned earlier, not a single case of "mixing" has been identified or named, nor has anyone been chargesheeted.

Fortunately, for the industry, in January 2015, both the Surat Diamond Association and GJEPC publicly announced that all allegations of "mixing' were "rumours"(http://betterdiamondinitiative.org/exclusive-diamond-mixing-has-never-taken-place-surat-diamond-association).

GJEPC pushing government to create Policy level hurdles for Grown Diamonds

1. GJEPC wants to discourage the import of lab-grown diamonds to India
2. GJEPC pushing for higher duty on import of lab-grown diamonds to destroy their competitive edge
3. Mixing is an impossibility as there are enough table-top detection machines costing upwards of $50 – which is affordable even for the smallest player.[1]

Source:
http://betterdiamondinitiative.org/ample-and-affordable-diamond-detection-machines-galore/

The current apprehension is that GJEPC has been trying to persuade the government to discourage the entry and sale of lab-grown diamonds in India.

But such a move would only make India much more vulnerable on account of factors explained earlier:

1. With dwindling supply of mined roughs, it is imperative to create new sources for rough diamonds.

2. With miner-driven rough prices climbing continually, without a commensurate increase in market-driven cut and polished diamonds, profit margins for the Indian diamond industry have been squeezed terribly.

3. With diamond mining companies encouraging supply of diamond roughs directly to retail chain stores, Indian will further lose its supply of roughs.

That is why it is necessary to encourage lab-grown diamonds: because of their consistent purity, their affordable cost, and also because they come without harming the environment or scarring the earth.

They will allow for higher margins to cutters and polishers because they are priced 30% below the prices demanded by miners, and also help India further consolidate its position in the global diamond industry.

Grown Diamonds - THE ONLY ALTERNATIVE SUSTAINABLE SECURITY for Indian Industry

1. US Grown Diamond Market growing at over 100% CAGR
2. Grown Diamond Cos. are growing stronger around the world

Singapore, Malaysia	United States	United States	Netherlands, US

3. Grown Diamond can help India retain its strategic strengths:
   - Pre-eminent position in the world market
   - Restore industry workforce from 4 lakhs to over 1 million[1]
   - Avoid job losses in the Jewellery Industry workforce of 35 Mn[2]

source:
1. Annexure: Frost and Sullivan Report: Grown diamonds: unlocking future of diamond industry by 2030
2. DNA Conversation on Gold Trade (See Attachment)

Grown Diamonds will improve Industry's margin and reduce malpractices

1. Competitively priced Rough Grown Diamond supply will allow the Indian industry to increase the value added
2. Improved margins will deter business owners from indulging in unhealthy practices (Money laundering, Round tripping etc.)
3. Reduced malpractices will help save the corrosion of our currency and improve reputation of overall industry.

If India has to remain a global leader in the diamond C&P industry, and if it wants to further consolidate its position in the higher margin diamond studded jewellery, it has no option but to look to lab-grown diamonds to achieve three objectives.

The fact is that lab-grown diamonds have become increasingly acceptable worldwide. Celebrities have publicly expressed their preference for ethical and lab-grown diamonds that are of the highest grade of diamonds – consistently made available – and are free from the stigma of blood diamonds or environmental degradation.

There are other reasons too:

India will need to secure the source of additional roughs which it will need for its 300,000 strong workforce.

Second, it also has to find enough work – and that means sourcing additional roughs -- for the 500,000 odd people already displaced because of unfair practices engaged in by the existing diamond players, abetted by policies that allowed them to set up beneficiation centres overseas.

Third, it needs improved margins to make this trade profitable and sustainable. It is a good way to cleanse the industry of several malpractices.

That is why India's policies need to ensure that such diamonds are not discriminated against.

India can establish itself as an ethical and sustainable diamond processing center

1. Consumers globally are insisting on ethical, environment friendly and sustainable products (like Organic farming)
2. Grown Diamonds are free from stigma of blood diamonds and unethical practices of mined diamond industry
3. Grown Diamonds will allow Indian Gem and Jewellery Industry to expand into this ethical and sustainable market
4. Industry will get competitive advantage in terms of better pricing, better quality, transparency and fair declaration

Source: Annexure: Frost and Sullivan Report: The diamond growing greenhouses: Grown Diamond in Gems and Jewelry Industry

Name of the District	No. of Diamond units (approx)	No. of Diamond workers (approx)	No. of functioning units (approx)	No. of Diamond workers engaged (approx)	No. of workers who have lost their jobs (approx)
Surat	2,500	4,00,000	1,238	2,00,000	2,00,000
Ahmedabad	900	1,00,000	315	42,000	58,000
Mahesana	32	9,450	20	5,670	3,780
Banaskantha	300	20,500	90	10,000	10,500
Patan	50	2,000	37	1,500	500
Rajkot	290	39,000	90	10,000	29,000
Amreli	1,450	60,000	250	12,000	48,000
Junagadh	125	10,000	20	2,000	8,000
Bhavnagar	900	70,000	170	14,000	56,000
Total	**6,547**	**7,10,950**	**2,230**	**2,97,170**	**4,13,780**

{*Source: Deptt. of Labour, Govt. of Gujarat-Rough estimate based on surveys}

Source: Report of the (RBI) Task Force for the Diamond Sector, Ahmedabad February 26, 2009, mandated to look into distress arising on account of the problem faced by Diamond Industry in Gujarat

The fact is that the world moving away from prducts that harm the environment, or exploit labour, or have the stigma of oppression and exploitation ("Blood diamonds"). That is why, there is a huge advantage the Indian diamond industry will enjoy if it is allowed to use and embrace lab-grown diamonds.

There is a second reason too.

This industry needs to expand quickly.

As the RBI's task force clearly showed, This industry had witnessed job losses totalling over four lakh even as early as even as early as February 2009. Anecdotal evidence suggests that this number could currently be around five lakh.

India will have to get these skilled workmen back into the industry and carve for itself a bigger role in the global market for gems and jewellery.

This will not be possible without augmented levels of rough supply on the one hand, and increased margins on the other.

This is what the lab-grown industry can help India achieve.

Unfortunately misplaced remarks about creating an additional 4 million jobs in the diamond industry are far-fetched. Even the incremental growth of five lakh will be possible only if new sources for diamonds roughs (viz. lab-grown diamonds) are created.

Grown diamonds can boost "Make in India" vision in Hi-Technology sector as well

1. Grown Diamonds have wide application in hi-technology and scientific sectors like Quantum Computing, Medical, Laser, Aviation etc.
2. Sustained availability of High-quality diamonds will allow India to become hub of high-technology and scientific applications
3. These industries in the long term will generate employment potential of over 100,000 – PhDs, Engineers and Diploma holders[1]

Source: Annexure: Frost and Sullivan Report: Grown diamonds: unlocking future of diamond industry by 2050

Secure Industry through fair policy Initiative

1. Encourage alternative source supply for Diamond Industry
2. Don't discriminate in tariff as well as classification
3. Strengthen Declaration and Enforce Transparent practices
4. Enforce random check in the value chain

Lab-grown diamonds also offer India another advantage.

They can propel India to the forefront of technological breakthroughs.

This is because according to all studies, barely 30% of lab-grown diamonds will cater to the jewellery sector.

This is because, according to informed sources, barely 30% of lab-grown diamonds will cater to the jewellery sector.

These industries can create new types of sustainable employment for over 100,000 PhDs, engineers and diploma holders (Frost and Sullivan Report: Grown diamonds: unlocking future of diamond industry by 2050).

These are jobs waiting to be created – in fields related to quantum computing, medical, lasers and availation among others.

If India does not reach there, some other countries will – both for jewellery and for high-tech sectors.

To prevent malpractices, the government should make random checks mandatory, for all types of diamonds, from all sources. The very knowledge that random checks are likely to take place will put the industry on guard.

New machines – that are both easy to use and inexpensive – can make the job of detection very easy and swift. This is something that is explained later.

Policy Recommendation - Encourage alternative source supply for Diamond Industry

1. Ensure competition on source which allows all-round profitability
2. Import duties
   - Polished Grown Diamonds for Gem and Jewellery industry to have 2.5% Duty
   - Polished Grown Diamonds for Scientific industry (plates etc.) - Exempt from duty
   - Rough Grown Diamonds to be exempt from duty
   - Semi cut lab-grown diamonds to be exempt from duty
3. Offer grants to boost R&D activities in Grown Diamonds
   - 25% to 50% grant – Value up to Rs. 25 lakhs

Some of the policies that the industry should adopt are

– A uniform application of a 2.5% duty on all cut and polished imports, thus bringing polished lab-grown diamond imports on the same footing as polished mined diamond imports.

– As with the case of mined rough diamonds, all import of lab-grown roughs should also be import duty exempt. There should be no grounds for differentiating between the two classes of diamonds for any import or export duty aplication.

– Hence, exemption from import duty would also be applicable to semi cut lab-grown diamonds.

– There should be some incentive for lab-grown diamonds being used for high technology applications. This was not possible earlier, because diamonds of a particular grade could not be made available conistently both in terms of number and quality. Lab-growns have changed this picture.

– Hence there should be R&D grants made available for researching and actually using lab-grwn in high tech areas.

Policy Recommendation - Ensure non-discrimination of Grown Diamonds

1. HSCODE of Mined and Grown Diamonds should reflect that they are Diamonds, but with a different origin
2. This can be achieved by maintaining same HS code heading 7102 for both mined and grown diamonds and a different sub-code (at 7^{th} and 8^{th} digit level)
3. This will be consistent with the practice for Pearls. Both Natural and Cultured Pearls have the same ITC category (7101) but different sub-categories.

In order to ensure that the principle of uniform approach is maintained, we believe that the HSCODE for Mined and Grown Diamonds should reflect that lab-grown diamonds are nothing else but diamonds, though from a different origin.

Both natural pearls and cultured pearls have been put under the same category (HSCODE 7101) and differentiated using sub-categories.

Our recommendation is that the same HSCODE – 7102 – is used for both mined and lab-grown diamonds.

There could be a different sub-code at the 7th and 8th digit level as is done with pearls (HSCODE 7101).

Policy Recommendation - Strengthen Declaration and Enforce Transparency practices

1. Enforce the practice of Chain of Custody (RJC proposed) for all diamonds - Mined and Grown
2. Chain of custody will ensure right declaration of diamonds consistent with the history of their exchanges
3. Chain of Custody practice will additionally help in checking the flow of tainted or conflict diamonds as well

What should be insisted on is that declaration and transparency should be enforced with the utmost strictness.

One way would be to enforce the “Chain of Custody” concept. This will ensure the right declaration of diamonds, consistent with the history of the history of their exchanges.

This would be far more effective than the much abused and ineffective Kimberly Process certification that was insisted upon in previous years.

Such a practice would also help eliminate the proliferation of tainted or conflict diamonds.

Policy Recommendation - Enforce random checks in the value chain

1. Grown Diamonds detection machines (INR 10,000 to 5,000,000 per machine) at affordable rates are available
2. Random checks at import and export will check "undisclosed mixing"
3. Lab-grown diamond should be imported at two designated import clearance centre in order to have proper statistics available

Source:
http://betterdiamondinitiative.org/ample-and-affordable-diamond-detection-machines-galore/

Enforcing random checks could become extremely effective because of two reasons:

A uniform classification would allow for a uniform application of all rules and thus eliminate any scope for discretionary application of levies.

The advent of new technologies have allowed grown diamond detection machines to be made available for as little as Rs. 10,000. Many of them are tabletop machines which are easy to use.

These machines can scans large numbers of diamonds very quickly, thus eliminating the need for confiscation or delay. This is critical for a very high value prduct like a diamond.

Some of these machines can be found listed at http://betterdiamondinitiative.org/ample-and-affordable-diamond-detectikon-machines -galore.

The easy availability of such machines itself ensures a safeguard against any posible “mixing”.

We also believe that all diamond imports be channelised through two designated import clearances centres in order to have proper statistics and uniform practices.

Key dna articles

http://www.dnaindia.com/analysis/standpoint-pre-budget-analysis-gjepc-lobbies-with-government-to-stall-entry-of-lab-grown-diamonds-2000246

Pre-budget analysis: GJEPC lobbies with government to stall entry of lab-grown diamonds

Monday, 7 July 2014 - 2:05pm IST | Place: Mumbai | Agency: dna | **R N Bhaskar**

The **diamond trade is aghast at media reports aimed at thwarting the easy availability of lab grown diamonds.** The Gems and Jewellery Export Promotion Council (GJEPC) has been lobbying for a minimum customs duty of 10% on all import of lab-grown diamonds.

The suggestion is preposterous for several reasons.

First because lab-grown **diamonds** (also known as manmade diamonds, cultured diamonds or ethical diamonds) are almost like earth-mined diamonds. They are made by replicating the same conditions (heat and pressure) that Nature created and are layered on a 'seed' of another diamond.

Distinguishing an earth-mined **diamond from a lab-grown diamond is extremely difficult.** This is notwithstanding a diamond testing centre that GJEPC opened in India (in partnership with Gemmological Institute of India (GII) in December 2013. In fact, De Beers wanted the US government to call lab-grown diamonds synthetic stones. But the courts ruled that they could continue using the nomenclature lab-grown diamonds. As one industry source says, "Can a test-tube baby be called a synthetic baby?"

Second, because the diamond cutting and polishing industry works on wafer thin margins. The value-addition of a cut and polished diamond is barely 20%,and much of it goes towards interest costs and losses on account of currency fluctuations. Rough diamonds,it may be recalled, are purchased in one country, cut, polished and processed in India (India cuts and polishes 10 out of 12 stones n the world), and sold to a third country. Diamond traders have therefore to deal with currency movements in at least three countries for the 3-6 month period when the roughs are converted into polished goods in India.

With net margins of barely 5% importers of lab-grown diamonds will find any levy of a 10% duty quite excessive. They will be compelled to mix such diamonds with other roughs, and then mis-declare all to be earth mined diamonds instead. That, in turn, will force the customs department to seize stocks of diamonds and send them to laboratories, thus locking them up for another month or two. No diamantaires can afford interest costs for another month. It will cripple the diamond industry if such a proposal is mooted.

Third, the market wants lab-grown diamonds. They are almost blemish-less (which is a worrisome factor for people who believe that blemishes bring in bad luck). They are ecologically friendly (as they do not scar the earth with mining). They avoid the stigma

of blood-diamonds. In fact, several global celebrities (including Kate Middleton, now Prince William's wife) have gone on record stating that they would prefer ethical diamonds instead. And, most importantly, they are more uniform, yet cheaper than earth-mined diamonds. Linked to this is the fact that GJEPC has still not come forth with any names of the exporters and importers of lab-grown diamonds who have duped any custmers.

Fourth,because irrespective of whether the diamond is earth-mined or lab-grown, most of them will have to come to India for cutting and processing. The industry employs around 6 lakh people. The gold jewellery industry, which uses these diamonds for studding, accounts for another 3.5 crore workers. Any disruption of imports could prove to be counter-productive to the employment potential that this trade enjoys.

Fifth, supplies of earth-mined diamonds are becoming quite irregular. This is because of two reasons. One is the cartelized approach of the De Beers conglomerate to the supply of diamonds. The second is because most diamond mining centres have started their own diamond beneficiation centres. Thus, countries like Zimbabwe and Botswana, which together account for a large share of diamond production worldwide, have their own diamond cutting and polishing centres. India gets only the residual stones.

Sixth, since many Indian entrepreneurs own these cutting and polishing centres in countries like Botswana and Zimbabwe (often in association with entities closely linked to the De Beers conglomerate), they also lobbied through the GJEPC in September 2013 to allow duty free import of cut and polished stones, **which DNA pointed out was a move that would destroy Indian jobs.** Mercifully, the commerce ministry put paid to such lobbying efforts.

Seventh, this is not the first time that GJEPC has lobbied for making import of diamonds from sources not approved by De Beers extremely difficult. It did this when India found import of diamonds quite cheap from Russia. There was a move to allow duty free imports only for diamonds purchased from the Diamond Trading Company (DTC) a De Beers Affiliate. The same happened when India tried importing roughs from Australia's Argyle mines.

Then when India found it could **get diamond roughs cheap from Sierra Leone and Zimbabwe,** De Beers began lobbying along with GJEPC for a ban on 'blood diamonds' as they were violative of the **Kimberly Process norms vetted by the UN.** How the UN was persuaded to pass a resolution against **blood diamonds** is reminiscent of the manner in which it passed strictures against Iraq in the early 1990s. It may be recalled how a PR firm Hill & Knowlton got the media to cover a story about how Princess Nayirah of Kuwait was witness to babies being stripped of their incubator oxygen masks and left to die by plundering Iraqi soldiers. **Later, it came to be known that such an incident did not take place at all.**

Even Amnesty International was gulled by such reports and later had to aplogise.

Similarly, there is enough documentation to show how De Beers has always objected to any supply of diamonds from any other source other than its own affiliates. It may be recalled that in in December of 1953, Sir Ernest Oppenheimer appointed Sir Percy Sillitoe, who was earlier the head of the British counterespionage service known as MI-5, to create a system which could stop independent producers (often referred to as smugglers) from selling diamonds in the open market. Those who did not accept the price offer made by De Beers and its associates were beaten **into submission, killed, mugged or even ransacked.**

DNA has access to RTI queries filed between relating to lab-grown diamonds, and there is no reply forthcoming from the Gems and Jewellery Export Promotion Council (GJEPC) on any of the issues raised. Media reports also mention that GJEPC had appointed experts - A T Kearney and Bonas & Co. (management consultants and De Beers brokers respectively) - to assist in the project of 'establishing the current status, prepare a 'framework/guideline for the industry members to trade in natural and synthetic diamonds'. But no details of their recommendations have been made available to the trade. So what is all the hush-hush about? DNA wrote to the president of GJEPC, but got no response from him.

So is the clamour for imposing an import duty of 10% on lab-grown diamonds just another attempt to block their entry into India? Will India's policymakers be taken in by such arguments? The coming days will tell.

http://www.dnaindia.com/india/interview-lab-grown-diamonds-make-their-mark-forever-2020205

Lab-grown diamonds make their mark — forever

Monday, 29 September 2014 - 8:30am IST | Place: Mumbai | Agency: dna | **R N Bhaskar**

(From left) Richard S Garard, Lisa Bessel, Vishal Mehta and Kshitij Chitransh who were the panellists at a dna conversations discussion

The concept of lab-grown diamonds is not new – it goes back almost seven decades. But it began being produced commercially barely a decade ago. Currently, such diamnds are produced by less than half a dozen companies worldwide. However, even collectively, they account for barely 2% of the total global market for diamonds.

But the potential is huge. Especially with new applications for diamonds.

In what may be the world's first panel discussion on lab-grown diamonds, DNA Conversations brought together an eminent panel to discuss this industry. The panel comprised (in alphabetical order) Lisa Bessel, president and CEO, Pure Grown Diamonds Inc. (USA), Kshitij Chitransh, principal consultant, Frost & Sullivan (Asia Pacific), Richard S Garard, CEO, Microwave Enterprises, LTD (USA), and Vishal Mehta, managing director, IIA Technologies Pte Ltd. Bessel and Garard participated in this discussion through a video link.

Moderated by R.N.Bhaskar, with editorial support from Varghese Koshy and Priyanka Gawande, the discussion threw light on why lab-grown diamonds are here to stay – forever.

Given below are edited excerpts:

dna: Vishal, you are one of the large global players in this industry. Could you tell us how you got into this business and how big the industry is? Also, what exactly is this product that you are making and selling?

Mehta: Yeah. The shortest answer to what grown-diamonds are is that they are real diamonds. Nothing more. Nothing less. Grown-diamonds are a new source of diamonds that can be obtained

from above the earth. They are grown in what may be called 'diamond-growing greenhouses' above the earth under 'sustainable conditions'.

These diamonds are physically identical to mined-diamonds, but have a larger application base compared to mined ones. Because these diamonds are grown under certain conditions, are consistent in quality, and can be made available in large quantities, they have applications in many more industries.

High-quality diamonds have generally found application largely in the luxury industry. That's because enough diamonds could never be mined sustainably for commercial applications. You could find one diamond with the right qualities only once in a while.

dna: Which is why industrial applications flagged, even while earth-mined diamonds worked well in jewellery?

Mehta: I wouldn't use the word "industrial." As, for example, the grown-diamond [also referred to as lab-grown diamonds, cultured diamonds or purity diamonds- Ed] industry is structured very much like the mined-diamond industry.

Even with earth-mined diamonds there is an industrial side, but which uses lower quality, smaller sizes for various industrial applications.

And, as far as high quality grown-diamonds are concerned, until a few years ago they didn't exist because people weren't able to get diamonds in the right quality and quantity to make it commercially viable.

dna: How big are the biggest stones?

Mehta: IIA Technologies is the only company in the world that can grow diamonds above 10-mm (10×10-mm). Now, that to an average person sounds very small. But to be able to grow a diamond that size, you need to first have a seed of that size. So it's an extremely complicated process.

And, so as far as diamond plates are concerned for non-gem applications, we are pretty much the only company that can grow 10×10-mm diamonds in large quantities. Now, we are trying to make diamonds of larger sizes.

dna: When you say 10×10, that's almost a square shape. How thick would that be?

Mehta: That depends on the application. A lot depends on which way customers need these diamonds cut or polished. We can grow them up to thickness of 4-mm, 5-mm or 6-mm, or even thicker, if necessary.

dna: Theoretically, if someone had an application for thicker diamonds, you could make them, right?

Mehta: Yes. But, there is a physical limit to that. It depends on what the customer wants. Yes, they are just like earth-mined ones.

dna: Kshitij, you have been researching this industry. According to news reports and in interactions with industry players, there seem to be many players who have been in the conventional space of earth-mined diamonds, who see lab-grown diamonds either as a threat or something that shouldn't be encouraged. Why is this happening?

Chitransh: Let me try and answer that by giving you a background of consumers' perception of lab-grown diamonds.

We conducted a survey in six countries, including India, where we asked consumers various questions on grown-diamonds, including whether they would buy a grown-diamond, or not. We also educated them on what grown-diamonds are, and how they are the real thing. We got an overwhelming response of close to around 80% saying they are willing to buy such a diamond.

dna: So, 80% of customer are willing?

Chitransh: Yes, there is the propensity to buy. The problem, however, is that producers like 2A Technologies and others around the world are facing resistance which always happens when a new product confronts an established product. Also, though consumers are willing to buy it, terms like 'synthetic' cause doubts in their minds. So the same set of consumers -- people who had been educated on grown-diamonds -- when asked what they understood by synthetic diamond said that they were fake. Almost 90% of them felt that way.

dna: Synthetic has a connotation of fake, of inferior quality, right?

Chitransh: A product, which is the real thing, is being given the 'fake' tag.

dna: So that explains why the lab-grown industry prefers to call them lab-grown or man-made, rather than synthetic.

Chitransh: That's right. We have been tracking this nomenclature problem in two of our reports. And what we have understood so far is that it's the traditional resistance from established players to an emerging product.

dna: Seems the customer is willing, but the trader is not? You have to get the trade barriers down.

Chitransh: That's right.

dna: Is the trade reluctant to take it because they don't understand the product. Or, is it because they find the terms unfair, or is there some other reason?

Chitransh: The resistance you encounter is not just in the diamond industry. It's there in every industry. For example, whenever Apple comes up with a new product, there is resistance from established players... like Microsoft, etc.

dna: And given your surveys, how long do you think it will take for much of this resistance to wane?

Chitransh: Any resistance to a new product ebbs when it's marketed sufficiently well. And hence it's important that the industry delivers the right message to consumers. In this case, drive home the fact that the lab-grown-diamond is the real thing, and that the nomenclature is a misnomer.

dna: Lisa, you've been marketing lab-grown diamonds across the world. What are your findings on customer perceptions, their willingness to buy. After you sold them diamonds, how happy were they about the acquisition, ownership?

Bessel: Well, first and foremost, this is a new category, especially in the United States. However, we have seen very positive and increasingly optmistic responses from consumers. But our first campaign was for educating consumers. On introducing the new product in the market, we had the opportunity to show retailers how lab-grown diamonds would give them incremental business as consumers would now have a new choice while buying. The feedback has been very positive because we're not competing with

mined-diamonds; we're giving consumers a new choice.And when they understand the purity and other features—eco-friendly source sustainably and exceptional value from a dependable supply—that grown-diamonds offer, there was a very positive response. So I think consumer acceptance is based on educating them on the product.

dna: What about the trade in the US?

Bessel: The trade in the US is mixed. Consumers are open to the opportunity once I educate them on the product. We also establish and maintain a trust with the retailers; that is an ongoing process. But because it's a new category, it will take time to gain acceptance, but acceptance is on the way.

And retailers like a new category; they understand it's not going to unhinge them from their current business, but offers incremental business and increase their consumer base. They may have had consumers who were not able to buy mined-diamonds, and for retailers the new category offers their consumers an additional choice. So, response from retailers has been very positive. But educating consumers and retailers on the product is paramount as acceptance-level increases.

Acceptance is getting higher. The more educational material and support we offer retailers, the more willing they are to get involved with the product. I don't think retailers have been educated much in the past, so our company is trying to make retailers partners in trying to send the message across to consumer. And I think once retailers feel they are supported well, the trust factor becomes more established and gives us a positive feedback.

dna: Richard, you have been looking at lab-grown diamonds in terms of its application in sectors other than jewellery, could you elaborate on that?

Garard: Yes. In the cutting tool industry that is looking for high precision tooling and hard tooling, optical markets, where its properties help in light transmission, and in the electronics field where its thermal conductivity comes into use, lab-grown diamonds are excellent. The potential of semiconductor-based diamond is also high.

The properties of the diamond have enamoured scientific and engineering community for a long time. Their problem has always been getting enough diamonds.

In the past, people have stopped researching or working with diamonds because of these constraints. We now have the opportunity to promote lab-grown diamonds for existing and future applications where properties of the diamond come into play.

dna: You talked about cutting, cutting-tool, high-precision-tool industries, light transmission, electronic fields, semiconductors, etc. Which is the segment that seems to be attracted more to lab-grown diamonds in terms of volumes and price?

Garard: High-precision-tooling industry, which finds the lab-diamond's hardness valuable, as it enables certain machining and operations that are not possible with certain other tooling materials.Here lab-grown is better because inconsistency of mined-diamonds often causes a lot of yield loss while preparing a tool. Lab-grown diamonds have better consistency. And volumes. So tooling companies, especially high-precision ones, now prefer us.The electronics field has always been interested in diamonds. Here again, cost, availability and purity have discouraged the end user. We are slowly introducing lab-diamonds to a number of research universities not just in the US, but around the world as well.

dna: A part of the lab-grown diamond industry caters to non-jewellery applications, what would be the percentage in terms of volume?

Garard: I'm not sure. We're still trying to evaluate the total market potential. But I can say we are continuing to grow in this sector.

dna: Vishal, you seem to have some idea on the volumes in non-jewellery application, would you like to talk about it?

Mehta: Volume is a relative term. What happens is, when you're growing diamonds for higher technology applications, you grow them extremely slowly and carefully to get the required properties. In the long term, we believe 70% of grown-diamonds would move to the non-luxury or non-traditional application sector, and only about 30% would be in the luxury segment.

dna: Does the same rational apply to the mined-diamond segment too?

Mehta: I can't testify to the figures, but can say that, at this point in time, mined-diamonds are used mostly by the gem industry.

dna: So, lab-grown diamond industry is looking at both jewellery and non-jewellery markets, and you think the market share of non-jewellery sector would be larger?

Mehta: Yes. It's very simple to understand. A diamond is an extremely unique element. It has extremely high dispersion rates, can withstand extreme pressures. In fact, right now it's being used in quantum-computing or using the electron spin-off of a diamond to actually denote one or zero to store data. These are all applications that are currently in the developmental phase. But having actually grown diamonds makes it possible for these experiments to succeed.

Diamonds are things that people have been wanting for a long time. But there haven't been enough of them, and because of that, high-technology applications couldn't really take off in any meaningful way. That has now changed, and that is the excitement in the market.

dna: Kshitij, how many big and small players are there in the lab-grown segment today?

Chitransh: It's a nascent industry. There are only two to three players we spoke to; mainly 2A Technologies, SCIO, and Chatham. But most of them focus on lower quality mass produced industrial diamonds, not the gem quality Type IIa that's sold to technologies producers.

dna: Are Washington Diamonds and Gemesis big players?

Chitransh: They are. But Gemesis is not on the production side, but in retail.

dna: Where are these companies located, keeping in mind that they are energy intensive?

Chitransh: Production facilities have been coming up mostly in developed countries, because production requires high-reliabiligty, grid electricity, found mainly in countries like Singapore, Malaysia, Russia and southern Europe.

dna: Are all these countries equally competitive in power and quality?

Chitransh: I think it's a matter of where producers are able to find the right supply chain, because the key raw material for grown-diamonds is diamonds [as seeds around which the new diamonds

grow. Ed]. Hence, it's important to set up the entire supply chain. And, a producer will prefer to set up a supply chain in Singapore and Malaysia than say in Russia.

dna: What percentage of the market would lab-grown diamonds account for today?

Chitransh: We have done a forecast on what the industry could be. Talking about 2014 forecast, lab-grown diamond is around 0.1 to 0.5% of the total sale of polished diamonds for end applications. It's expected to grow in the next five years to 1 to 3% of the total diamond sales.

dna: If it's just 1 to 3 %, why does the (mined-diamond) industry feel threatened?

Chitransh: I cannot talk on why they feel threatened, but can talk about the potential of grown-diamonds. There are two aspects to it.

Publications have recently been talking about production of mined-diamonds getting depleted over time.

When coupled with the capability of players in grown-diamond sector to scale up production, then it becomes a potential viable alternative.

dna: You have a situation where mined-diamond supplies are dwindling...India will be adversely affected?

Chitransh: Yes, you are right. Grown diamonds are, and can be, a potential viable alternative to the upstream supply chain players such as polishers, cutters. So, they now have an alternative supply store, and their business can thrive.

dna: So the grown-diamond industry would actually stabilize the polishing industry in India?

Chitransh: It has the potential. There are obviously restraints in the production or the supply side for the moment, but it has the potential.

dna: Restraints in supply sides, and what else, volumes?

Chitransh: Not just volume. It's a costly technology to begin with. Diamond greenhouses require a lot of capital. And the operation requires a lot of working capital. So, how industrial players take it forward in such a scenario is something that will drive growth in the industry.

dna: Vishal, at what discount to mined diamonds are lab-grwn diamonds being made available?

Mehta: I believe grown-diamonds are 20% to 25% cheaper than mined-diamonds.

dna: Do you expect the margin to increase, or stabilize at this level itself?

Mehta: Over time, diamonds would continue to become rarer. So, as time passes, the value of diamonds will move up. As far as lab-diamonds are concerned, markets will react to the pricing of these diamonds in much the same way as they react to mined-diamonds, because both form the same pie.

dna: Will diamond prices gain some sobriety?

Mehta: Yes, once people and governments understand that lab-diamonds are real diamonds. Then there will be a phase when both

would be considered the same product. So, it's a bit complicated in terms of assessing right now whether prices will rise or fall.

dna: In your opinion what are the measures India's policy makers should take to make this industry a lot more vibrant?

Mehta: We believe that India can continue to grow as the world's biggest diamond cutting and polishing centre. Skills that have been created in India over decades are unique because they have been created from scratch. And it has been an industry created based on rough supply – on the basis of whatever is available. Now what lab-diamonds do is to add to this volume. And as Kshitij put it, it becomes one more pie on the table.

So it lets the country that is looking at just cutting and polishing diamonds for jewellery now, to start looking at an entirely different set of industries as a customer base. So you're not just looking at the luxury industry, but at a whole new set of industries as a customer base. You're also looking at far higher precision and quality of cutting.

That is needed for higher technology applications. When you talk about precision engineering, there are customers who actually look at a diamond at 500 times magnification to identify whether there are micro cracks on the diamond cutting blade. So, it's actually a high value application. Earlier skills of diamond cutting may not suffice.

So you need to look at the kind of skill-sets that will have to be created to attract that kind of business into the country. The base skill-set already exists.

dna: Are you talking about refining the existing skill-sets?

Mehta: Yes. We like to talk about social sustainability, look at the kind of graduates you're going to have tomorrow; the kind of people and jobs that people will be looking for tomorrow. So, when you're talking about engineers, you're talking about diplomas, diploma holders, research scientists, creating jobs for that set of people. Similarly, we have to begin to look at people presently engaged in cutting and polishing, and upgrade those skills to higher skills required for this type of work. So, we see the future as being higher-value cutting and polishing. We see the future as taking on these new industries, new applications and anchoring growth—processing diamonds in India for both domestic use as well as for export.

dna: What about export?

Mehta: India has the capability. Whenever anybody thinks of processing, cutting and polishing grown-diamonds just like they do for mined-diamonds, they must first think of India. There are a lot of companies around the world, which have customers who have cutting and polishing centres in countries in Europe and in the US. They have also opened re-cutting centres and cutting centres in China. India has the skill-sets, and businesses already exist, investments have already been made, so the country does not need to think of something completely new. However, it must now think of how to adapt to this new availability and opportunity.

dna: What should the role of policymakers be?

Mehta: First acknowledge the fact that these are diamonds. That these are the same as mined-diamonds and should be classified as such.

If you look at the HS Code system [which the customs department uses for valuing exports and imports], under 7102, a separation

already exists for different types of diamonds, different forms of diamonds. Under 7101, a precedent has already been set, where pearls under 7101 on the fourth and sixth digit-level have already been segregated as natural pearls and cultured pearls.

So, what we would propose is to realize that these lab-growns are not synthetic, not only from a marketing point of view, but technically too, as they actually grow under a crystal growth process and not a synthesis process.

Now there is a very important difference between the two, because synthetic means growing as a result of a synthesis process, that's again through reaction. It means two or more compounds combining to form a third complex chemical compound.

But if you look at the chemical formula of diamond, it's just C, a pure carbon. There is nothing else inside. So calling this synthesis is just not right.

Crystal growth is the core process. And therefore, the term synthetic, not only from a nomenclature point of view, from a consumer understanding point of view too, is not the correct term.

dna: So what is it that you would like the government to do?

Mehta: Under 7102, we would request that diamonds be segregated at the sixth and eight digit level, which comes under the country's purview, and to be segregated as mined and grown-diamonds. This way there will be a clear classification of diamonds as mined and lab-grown diamonds.

dna: So you are not averse to being classified as a separate product?

Mehta: It's actually the opposite. We strongly request to be

separately classified as grown-diamonds, but still be recognized as diamonds.

In other words, we should be treated as diamonds.

dna: Any other policy initiative?

Mehta: Yes. We would actually like to request the government that, if possible, there should be incentives to attract investment in this area of high-technology processing of diamonds in order to attract companies that have been doing this for long

There are companies in northern Europe and the US that have been doing it for a long time. They are looking at China now as a potential investment area.

I would think that India is an excellent environment for this to grow quickly. At the same time, now that diamonds, especially quality diamonds, are available, the existing high value or cost might not really work out that well. So we would request that incentives be made available for attracting companies to India and ensure that primary as well as diamond re-cutting facilities are setup overtime.

Chitransh: Let me add one more point. Recently when the PSLV was launched, the prime minister said that this was an opportunity for India to develop its own niche, where it would make or launch satellites for the world at a much cheaper price. Similarly, in the diamond industry too we have an opportunity to develop highly scientific and R&D-oriented jobs.

Mehta: Research based on diamond material was something that took place about two decades ago. Now with these diamonds available, we would request India to look at a research base for next generation diamond-related application to be created in India. So,

that R&D centres come up. India has the most amazing talent and can create a centre for future application and take it to the next level. Countries like the US have proved that this can be done.

New applications attract new industry and it has a multiplier effect that is unimaginable. So we would request the government to look at grown-diamonds for what they could be in the future.

Bessel: I think India has always been a very important part of the gem and jewellery industry. With the wealth of talent that India has in cutting and polishing, continued support for our industry with your talent is what will keep our lab-grown diamond jewellery industry expanding in the US and throughout the world. It's a resource we have always relied on and will continue to rely on.

Garard: Yeah. I think as of now, through scientific and high-technology applications, we can control the environment and grow diamonds to meet some of these requirements. Those requirements also need higher-precision polishing, better finishing. And right now that's the challenge. I think it's important to use the experience and the knowledge and the manufacturing base for diamonds existing in India.

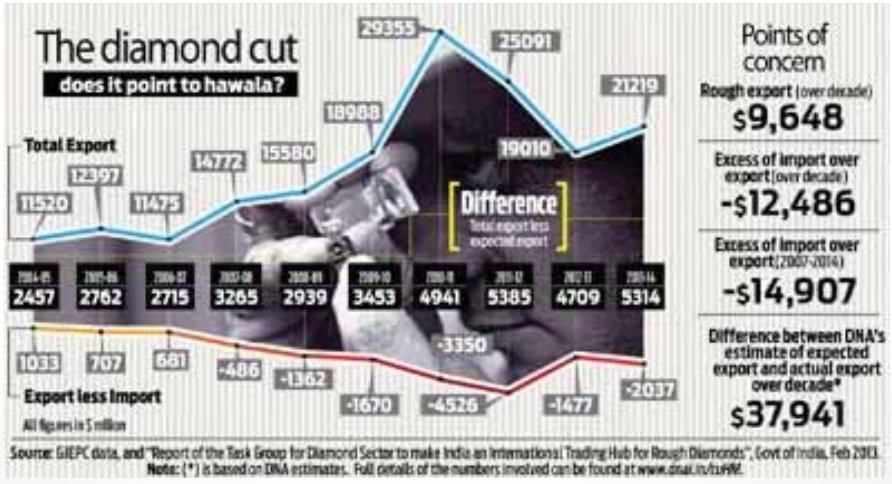
But I think some improvement is also necessary in technology for some of the high-end applications, polishing and finishing for India to advance in this arena, as well as make the potential that exists for lab-grown-diamond a reality.

http://www.dnaindia.com/analysis/column-policy-watch-dark-side-of-the-sparkle-2045797

Policy Watch: Dark side of the sparkle

Monday, 22 December 2014 - 5:00am IST Updated: Sunday, 21 December 2014 - 1:05am IST | Place: Mumbai | Agency: dna | **R N Bhaskar**

Hawala is corrosive. It weakens a country's currency. It saps an industry's vitality. When coupled with moves that could abet job destruction, the issue becomes extremely serious. That, unfortunately, is what the famed Indian diamond industry could be accused of — if data gleaned by dna is anything to go by. The trends discovered from these numbers are disturbing.



Job destruction

The diamond trade has been importing roughs (using credit from Indian banks) and then re-exporting some of them. In doing so,

Indian diamantaires use these roughs for other cutting and polishing (CP) centres set up elsewhere in the world.

Look closer and you realise that many De Beers' Indian sightholders (who are among the largest diamond merchants) have CP centres in other parts of the world. Cumulatively, export of roughs accounted for $9.6 billion over the past ten years (see chart; for a fuller version of the numbers involved do visit www.dnai.in/cuHM).

This is extremely serious, because it means that instead of strengthening the trade in India, some diamantaires are actually whittling down India's strengths. Rather than creating labour opportunities in India, this industry has been creating job opportunities elsewhere. It is quite possible that this factor, along with global recession, has contributed tremendously towards reducing the diamond CP workforce from a peak of around 8 lakh workers five years ago to barely 3.5 lakh today.

Equally disturbing are two other findings.

Abetting hawala?

First, ever since 2007, the diamond industry's imports are greater than exports. But isn't this sector an export oriented industry? Yes. But cumulative shortfall of **exports** (over imports since 2007) is around $14.9 billion.

But the most serious is dna's finding that it is possible that the **diamond industry** has been abetting hawala by undervaluing its exports. dna took a 30% value addition for CP roughs in India, a 7% value addition (for assortment and valuation) for imported cut and polished diamonds. dna also compensated for the roughs that were being exported out of India (see www.dnai.in/cuHM). The computations lead us to believe that exports were under-invoiced

by as much as $37.9 billion over the past decade. That translates into Rs.2.3 lakh crore of hawala.

dna sent all related figures and the manner of arriving at estimates to the Gems and Jewellery Export Promotion Council (GJEPC) and to the Ministry of Commerce officials for confirmation and/or clarification. But neither side opted to provide us with any response.

Equally worrisome are reports in this newspaper (http://www.dnaindia.com/mumbai/report-ed-on-the-prowl-as-india-loses-crores-in-trade-based-money-laundering-2036724) and the local language media that large diamond exporters, some of them present and past office bearers of the GJEPC, have been involved in major hawala transactions. When an industry's promotion council comprises people involved in undermining India's currency, shouldn't the government move quickly to redress this worsening situation?

Answers needed

This leads us to three questions:

First, is the GJEPC working towards achieving national objectives? Why has it not encouraged the growth of diamond CP centres in India? In fact, some of the recommendations the GJEPC has made to the government in the past appear rather suspect (see www.dnaindia.com/analysis/standpoint-pre-budget-analysis-gjepc-lobbies-with-government-to-stall-entry-of-lab-grown-diamonds-2000246).

Second: Is it not time for the government to slap a 3% import duty on all diamond imports — irrespective of whether they are cut and polished stones or roughs, and disregardful of the source of

imports. Nor does it matter if they are earth-mined or lab grown. What matters is to consolidate India's position as a CP centre of the world.

Will a 3% import duty harm exports? Not really. This is because importers, who are usually retail chains, automatically adjust for the cost of import and manufacturing expenses. Exports, say very knowledgeable sources, will not get affected.

Third: Shouldn't the government levy export duty on rough exports? After all, everyone knows that mining output of roughs is declining. Even Australia's Argyle mines may slip from 30 million carats to 7 million carats in five years' time (more on this later). Moreover, Indian banks are financing such imports. An additional duty on rough re-exports should therefore be in order.

It must also be recalled that the largest value-addition (and profit) is accounted for by mining companies and by retailers. India's diamond trade is squeezed at both ends. Shouldn't, therefore, the government prod the trade to focus more on retailing branded jewellery through chain stores? After all, Anglo American and De Beers — the largest suppliers (over 40%) of roughs to the world — have already changed their supply strategy and have begun supplying more roughs to retail chains like Zales, Tiffany, Signet, Sterling and Chow Tai Fook. That means fewer roughs for India.

This will further endanger Indian CP centres. If India has to survive as a gems and jewellery destination, it should be prodded towards more jewellery sales and for sourcing roughs irrespective of type or origin. That means fine-tuning policies to look at gold, silver, platinum and gemstones as a group, rather than as isolated products.

Remember, the jewellery industry accounts for another 6 crore as

its workforce (http://www.dnaindia.com/money/1855751/report-india-is-a-destination-country-for-gold-jewellery). Clearly, a large workforce, foreign exchange earnings, and future strategy for consolidating an industry's hold on consumers, all demand a more focused approach towards this industry.

Could we begin by staunching hawala and the re-export of roughs first?

The author is a consulting editor with dna

http://www.dnaindia.com/mumbai/report-ed-on-the-prowl-as-india-loses-crores-in-trade-based-money-laundering-2036724

Enforcement Directorate on high alert as trade-based money laundering bleeds economy; asks banks to plug loopholes

Thursday, 20 November 2014 - 7:25am IST | Place: Mumbai | Agency: dna | **Anto T Joseph**

Faced with a surge in trade-based **money laundering** cases and hawala scams, especially in Mumbai, Delhi and Gujarat, the Enforcement Directorate (ED) has alerted banks, and asked them to be more vigilant while transferring large funds.

In a meeting of top compliance officers and Money Laundering Reporting Officers (MLROs) of banks called by ED recently, the directorate has asked banks to plug loopholes and check the growing menace.

"Several banks such as ING Vysya, Bank of India, IndusInd and Citi were called in. Just a week ago, we have found that three banks separately encashed three similar-looking fake import bills – each over Rs 500 crore, carrying the same bill number issued by the same party," a senior official attached to ED in Mumbai told dna. Investigation is under way.

He said ED is currently pursuing more than 1,000 cases filed under Foreign Exchange Management Act (FEMA) violation.

"A lot of scamsters are using official banking channels like National Electronic Funds Transfer (NEFT) and Real Time Gross Settlement (RTGS)," he said. The recent surge in such cases points to the lack of checks and balances in the banking system to curb large funds being siphoned off from the country.

A senior MLRO with a foreign bank, who is an expert on anti-money laundering, said: "Assessment is being done on trade-based money-laundering by regulators as well as banks. It is not just India, but other countries are also worried about this menace."

"What we find is that the people involved in siphoning off funds have become more smarter. So banks need to be more alert," he said.

The Reserve Bank of India (RBI), which raised a red flag over money-laundering activities three years ago, has periodically come out with guidelines for anti-money laundering and Know Your Customer (KYC) norms. The fresh developments will now force the central bank to introduce stricter rules.

Among the recent high-profile cases on ED's radar is the Sahara group's possible fund diversion to foreign countries. The directorate is now investigating whether the group took funds abroad to create illegal assets.

The ED has registered a money-laundering case against the group in connection with non-payment of crores of rupees to depositors. "A case under the Prevention of Money Laundering Act has been registered against the group, and investigations are in progress."

In another case, the ED in Gujarat filed a second charge sheet in the over Rs 5,300-crore hawala scam allegedly involving a Surat-based trader before the special Prevention of Money Laundering

Act court. The ED has named eight traders from Mumbai, Surat and Ahmedabad.

As per the charge sheet, one trader allegedly sent hawala money of Rs 750 crore to his nephew through online RTGS, which was later sent through angadias (private couriers) to the main accused.

The money was then transferred to various banks in Dubai and Hong Kong, where it was received by their counterparts, according to ED.

The multi-crore hawala racket was busted in March during searches at Surat-based offices of some leading diamond traders. They allegedly made bogus import bills to show that they had purchased diamonds from foreign traders and sent money abroad, without a single diamond having imported, according to the directorate.

“In the Surat case, first it was the customs department which confirmed that the bills of entries were all fake. More than Rs 5,000 crore had been fraudulently siphoned off by Surat-based companies based on fake import bills,” said the ED official.

Last week, ED issued a show-cause notice to Videocon Industries, its chairman and managing director Venugopal Dhoot and six group companies for FEMA contravention of Rs 660 crore.

http://www.dnaindia.com/mumbai/report-rs-15000-crore-remittance-scam-hits-six-banks-2050352

Rs 15,000 crore remittance scam hits six banks

Wednesday, 7 January 2015 - 7:10am IST | Place: Mumbai | Agency: dna | **Shrimi Choudhary**

The Enforcement Directorate (ED) has unearthed a mega scam of fraudulent foreign remittances worth Rs 15,000 crore, involving a number of dubious importers. The scam involves importers depositing fake bills of entries (of imports) in banks and remittances are made to unknown people outside India.

"We are investigating the case under the Foreign Exchange Management Act (FEMA)," a top ED official told dna.

Six leading banks -- ICICI Bank, IndusInd Bank, ING Vysya, YES Bank, Kotak Mahindra Bank and Bank of India – were hit by the scam.

"Out of the Rs 15,000 crore of fake bill entries, we have so far established around Rs 4,000 crore. We have asked banks to lodge FIRs against all these importers and the banks have agreed. The transaction happened from 2011 till May 2014," a senior ED official, who is investigating the case told dna.

Most banks chose not to respond to dna's repeated queries.

In the dock

Bank	Remittances	Amount
ING Vysya Bank	735	$264.3 mn
Kotak Mahindra Bank	734	$187.9 mn
IndusInd Bank	275	$88.2 mn
ICICI Bank	91	$36.4 mn
Bank of India	48	$33.0 mn
YES Bank	14	$7.4 mn

What was the modus operandi?

As per ED sources, dubious importers submitted forged bills of entry and other import documents to banks with the intent to fraudulently remit foreign exchange. "Multiple duplicates of each bill of entry were made and submitted to different banks to show legitimate imports and to illegitimately remit huge foreign exchange outside India," said sources close to ED.

Who are the importers under ED's net?

Kanika Gems, Charbhuja Diamonds, Sambhav Exports, Keshav Impex, Pulkit Impex and Yogeshwar Diamonds, among others. "We are probing the importers' background and checking with banks if due diligence and KYC were done properly. These fake bills of import might have been used for gold smuggling," a senior official told dna.

Is black money involved here?

"By using these dubious entities, black money in the country is sent abroad, especially to tax havens like Mauritius, British Virgin Islands and Cayman Islands without paying any tax, an Income-Tax official told dna. A couple of days back, a special team of ED officials searched a regional branch office of Uco Bank in Mumbai and Chandigarh and recorded the statements of top officials. So far, it has been found that no due diligence or KYC has been carried out

in the advance remittance process of exports, said one ED official.

What's the total worth of fake bills?
ING Vysya Bank has made 735 fake import remittances worth $264.3 million while Kotak Mahindra Bank made 734 fake remittances worth $187.9 million. dna has copies of fake entries made in banks. IndusInd Bank made 275 fake entries worth $88.2 million, and ICICI Bank reported 91 worth around $36.4 million.

Are bank officials also involved in the fraud?
Bank officials are already under ED scanner. "Banks are supposed to share details of suspicious transaction to FIU (Financial Intelligence Unit). But they (banks) have not done so. We are investigating if it is just negligence or part of conspiracy by bank officials," said ED.

What does ED suspect?
"Prima facie, there is clear negligence by some bank officials while dealing with these suspicious importers. We suspect collusion. Once we get strong evidences against these officials, the case details will be handed over to the Central Bureau of Investigation (CBI) for further action," the source said.

What's the ED advice to banks?
Faced with a surge in trade-based money laundering and hawala scams, especially in Mumbai, Delhi and Gujarat, the ED had alerted banks and asked them to be more vigilant while transferring large funds, as reported by dna on November 20, 2014. The directorate had asked banks to plug loopholes and check the growing menace in a meeting attended by top compliance officers and Money Laundering Reporting Officers of banks.

http://www.dnaindia.com/money/report-diamond-buyers-mugged-forever-1794800

Diamond buyers, mugged forever?

Friday, 1 February 2013 - 9:00am IST | Place: Mumbai | Agency: dna | **R N Bhaskar**

Global fights over blood diamonds, lab-grown ones and testing imperatives increase cost.

The diamond industry has been savagely rocked by two developments during the past two years: blood diamonds, and the rapid acceptability of lab-grown ones.

De Beers, the world's biggest diamond player, appears to be against blood diamonds. For instance, it markets its ware under the Forevermark brand, and claims to sell only ones 'responsibly sourced'.

Yet, it seems to have linkages with peddlers of blood diamonds: last year protests erupted in the United Kingdom criticising Steinmetz, a De Beers associate, for being one of the major promoters of blood diamonds.

The issue has become so vexatious that almost a quarter of the $18 billion global market for diamonds is estimated to be blood diamonds, most of which get routed through Antwerp.

It was to avoid the stigma and ensure that customers got the purest stuff that some companies started growing rough diamonds in the lab – by replicating the conditions that Mother Nature engenders.

These diamonds are intrinsically of better quality than earth-mined

diamonds. And unlike as with most other earth-mined diamonds, which either scar the earth with mining, or adopt unfair labour practices, lab-grown diamonds are therefore considered to be 'ethical' diamonds.

That possibly could have been the trigger to try and give lab-grown diamonds a bad name. It all began with De Beers issuing a global notice that some 600 stones had been discovered in Antwerp, which were allegedly given to a diamond testing laboratory IGI (International Gemmological Institute) so that they could be certified as being "earth-mined" or "natural" diamonds.

Some media reports claimed that they were from Gemesis, the largest producer of lab-grown diamonds in the world. Yet, curiously, after 10 months of investigations, the diamonds seized by the Antwerp police have turned out to be 'natural'.

When DNA queried IGI, its co-CEO was not only hostile in his responses, but also refused to reply to any of the queries raised.

Then came reports that 10 more diamonds were discovered by Gemmological Institute of America (GIA) in Hong Kong that were "similar to Gemesis".

But in its replies to DNA, GIA was helpful enough to admit that identifying the actual producer of lab-grown diamonds is not technically possible. It therefore appears that someone has been trying to malign Gemesis.

The role of the Antwerp World Diamond Centre, the umbrella organisation for diamond trade bodies worldwide, is equally curious. Its primary focus is to ensure that consumer confidence in diamonds does not get adversely affected. But it has not taken any stand against De Beers approved diamond traders who peddle

blood diamonds, or against laboratories which are alleged to be willing to give any desired certificate for diamonds against a price (lab-shopping).

It told DNA that it did not want to comment on specific companies or laboratories. Antwerp Centre's wholly owned subsidiary, HRD, is a diamond testing laboratory and one of the most profitable in the world, and it too has got involved in such a controversy.

What is even more curious is that none of the diamond testing laboratories has bothered to talk about the lab-grown CVD diamond factory that De Beers itself owns – ElementSix, which Financial Times (January 14, 2013 issue) reckons to be a mammoth in size and capabilities.

There are two fights thus taking place – between the earth-mined and lab-grown diamond folks, and second, the blood diamond peddlers and protestors.

Guess who's benefiting from all this? The laboratories that test the rocks – they're laughing all the way to the bank.

And the victim? There's only one – the consumer, since he has to pay for the testing expense too, to check if the diamond is for real, and if he doesn't, then live with the confusion of its worth.

Even De Beers appears to be a beneficiary because it has realised higher prices for roughs. In the index of diamond prices, the price of roughs has gone up faster than those of cut and polished stones.

The customer, for sure, is being taken for a ride.

Hindustan Diamond Company Private Limited (HDCPL)

Rating Rationale

June 11, 2014

Facility	Amount (Rs. Crore)	Rating
Cash Credit	30.00*	SMERA BB+/Stable (Assigned)

** Includes sublimit for Inland Letter of Credit/Foreign Letter of Credit to the extent of Rs.22.50 crore and Bank Guarantee to the extent of Rs.10.00 crore*

SMERA has assigned a rating of **'SMERA BB+' (read as SMERA double B plus)** to the abovementioned bank facility of Hindustan Diamond Company Private Limited (HDCPL). The outlook is **'Stable'**. The rating is supported by the company's long track record of operations, strong net worth, healthy leverage (debt-equity ratio) and strong liquidity position. The rating draws comfort from the company's policy of dispatching goods against advance payments from customers. However, the rating is constrained by the deterioration in the company's revenue profile. The rating is also constrained by inventory losses incurred by the company and the ongoing dispute between stakeholders.

HDCPL, incorporated in 1978, is a joint venture between the Ministry of Commerce and Industry, Government of India (GOI) and De Beers Centenary Mauritius Limited. HDCPL is engaged in trading of rough diamonds. The company has strong net worth base of Rs.100.60 crore (provisional) as on March 31, 2014. HDCPL does not have any long-term debt as on March 31, 2014. The company's sound liquidity position is evident in low utilisation (~28.58 per cent) of cash credit limit during October 2013 to April 2014. Moreover, HDCPL's cash and cash equivalents balance (as per provisional financial statements) is healthy at ~Rs.86.06 crore, which includes liquid investments of ~Rs.85.20 crore in government mutual funds and cash and bank balance of ~Rs.1.30 crore.

HDCPL does not extend credit to its customers. The company accepts payments only through real time gross settlement (RTGS), demand drafts and pay orders. Moreover, HDCPL dispatches goods only after receipt of full payment, thereby eliminating counterparty risk.

HDCPL's operating income has declined from Rs.567.03 crore in FY2008-09 (refers to financial year, April 01 to March 31) to Rs.54.61 crore in FY2012-13 on account of supply constraints arising from dispute with De Beers Centenary Mauritius Limited. HDCPL incurred inventory losses of Rs.12.00 crore in FY2012-13.

HDCPL has disputed liabilities (of Rs.36.67 crore) related to payment of value added service (VAS) fees charged by its supplier, De Beers UK Limited. Further, HDCPL has disputed contingent liabilities of Rs.13.09 crore towards taxes. The aforementioned liabilities account for ~44.53 per cent of the company's total tangible net worth as on March 31, 2013.

Hindustan Diamond Company Private Limited (HDCPL)

Rating Rationale

Outlook: Stable

SMERA believes HDCPL will continue to benefit over the medium term from its established track record of operations. The outlook may be revised to 'Positive' in case the company achieves sustained improvement in revenues and profitability, and in case of favorable resolution of the ongoing dispute between stakeholders. Conversely, the outlook may be revised to 'Negative' in case of steep decline in the company's revenue, or in case of unfavorable resolution of the ongoing dispute between stakeholders.

About the company

HDCPL, incorporated in 1978, is a Mumbai-based company engaged in trading of rough diamonds. HDCPL was established as a joint venture between the Ministry of Commerce and Industry, Government of India (GOI) and De Beers Centenary Mauritius Limited. HDCPL fulfills a social mandate of the GOI by catering to small and medium enterprises in the diamond industry. The company has a trading office in Surat, Gujarat.

For FY2012-13, HDCPL reported net loss of Rs.40.41 crore on operating income of Rs.54.61 crore, as compared with profit after tax of Rs.0.28 crore on operating income of Rs.94.31 crore for FY2011-12. For FY2013-14 (as per provisional financial statements), HDCPL reported net loss of Rs.11.22 crore on operating income of Rs.78.83 crore. The company's net worth stood at Rs.111.75 crore as on March 31, 2013, as compared with Rs.152.20 crore a year earlier.

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Dear Mses. and Messrs.:

This letter responds to your Petition requesting that the Commission amend its Guides for the Jewelry, Precious Metals, and Pewter Industries, 16 C.F.R. Part 23 (Jewelry Guides or Guides). Specifically, the Petition seeks an amendment stating that it is deceptive or unfair to use the term "cultured" to describe laboratory-created gemstones.[1] Although the Petition alleges that

[1] Laboratory-created gemstones are defined in the Jewelry Guides as stones that possess essentially the same optical, physical, and chemical properties as mined stones. 16 C.F.R. § 23.23(c).

it is deceptive and unfair to describe any laboratory-created gemstone as "cultured," Petitioners focus on the use of the term to describe laboratory-created diamonds. In so doing, the Petition relies upon three surveys testing consumer perception of the term "cultured diamonds."

Having reviewed all the arguments and evidence Petitioners submitted, the Commission concludes that the Petition does not demonstrate that the use of the term "cultured" to describe laboratory-created diamonds, when qualified by one of the terms provided in the Guides,[2] is deceptive or unfair. The Commission, therefore, declines to amend the Guides at this time for the reasons discussed below.

Analysis of the Petition

In reaching its conclusion, the Commission analyzes whether use of the term "cultured" to describe laboratory-created diamonds is deceptive or unfair and examines Petitioners' argument that the Commission should amend the Guides to harmonize with international standards.

A. Deception

In support of its position that use of the term "cultured diamonds" is deceptive, Petitioners rely on a 1964 Commission opinion, Carroll F. Chatham Trading as Chatham Research Laboratories, et al., 64 F.T.C. 1065, and three consumer perception surveys dated 2002, 2005, and 2006. In Chatham, the Commission found that it was deceptive to use the term "cultured" to describe laboratory-created emeralds that had the same optical, chemical, and physical properties as natural emeralds.[3] As discussed in more detail below, the 40-years-old Chatham case, however, is no longer legally or factually relevant.

First, in order to decide whether to grant the Petition's request, the Commission must determine whether the representation "cultured diamonds" is deceptive under Section 5 of the FTC Act.[4] Under the current legal standard, a representation or omission is deceptive if it is likely

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[2] Section 23.23 of the Guides provides that it is unfair or deceptive to use a gemstone name (e.g., diamond) to describe man-made gemstones that possess essentially the same physical, optical, and chemical properties as natural, mined stones, unless the name is qualified by the word "laboratory-created," "laboratory-grown," "[manufacturer-name]-created," or "synthetic."

[3] The Administrative Law Judge (ALJ) entered an order that prohibited the use of the term "cultured," but allowed Chatham to use the term "Chatham-Created Emerald." On appeal, the Commission adopted the ALJ's opinion as the decision of the Commission and affirmed the order. The order is no longer in force pursuant to the Commission's sun-setting policy. Chatham, 64 F.T.C. at 1077-78.

[4] "The purpose of the Guides is not to maintain uniformly high product standards but rather to prevent unfairness and deception." 61 Fed. Reg. 27178, 27224-25 (May 30, 1996). Because the Commission promulgates Guides to help industry comply with Section 5 of the FTC

to materially mislead consumers acting reasonably under the circumstances.[5] The Chatham opinion, however, did not apply this deception standard. Rather, it cites a test that the Commission abandoned long ago – the "least sophisticated consumer" test, which provides that "the Commission may require an advertisement to be so carefully worded that the most ignorant and unsuspecting purchaser will be protected."[6] The Commission cannot rely on this outdated standard to evaluate this Petition.

Second, in evaluating whether a representation is misleading, the Commission examines not only the claim itself, but the net impression of the entire advertisement.[7] This net impression analysis is particularly important here because Petitioners request that the FTC amend the Guides to state that it is unfair or deceptive to use the term "cultured" to describe laboratory-created diamonds under any circumstances. Thus, to grant the Petitioners' request, the Commission would have to conclude that no reasonable qualification is sufficient to render the term "cultured diamond" non-deceptive to consumers. How consumers actually perceive the meaning of the term "cultured," therefore, is central to the determination of whether the term is deceptive. The Commission in Chatham based its decision on its sense of consumer perception at that time. This perception, however, may have changed significantly in the intervening years. Indeed, in 1996, the Commission declined to amend the Guides to address the use of "cultured" to describe laboratory-created gemstones because there was insufficient evidence of consumer perception at the time.[8]

Act, its Guide provisions attempt to delineate the boundary between claims that do or do not comply.

[5] Deception Policy Statement, appended to Cliffdale Associates, Inc., 103 F.T.C. 110, 176 (1984).

[6] Chatham, 64 F.T.C. at 1074.

[7] Deception Policy Statement, 103 F.T.C. at 179 n.32 (when evaluating representations under a deception analysis, one looks at the complete advertisement and formulates opinions "on the basis of the net general impression conveyed by them and not on isolated excerpts"). Depending on the specific circumstances, qualifying disclosures may or may not cure otherwise deceptive messages or practices. Id. at 180-81.

[8] 61 Fed. Reg. at 27208. The Commission solicited public comment on the Jewelry Guides in 1992 in response to a Jewelers Vigilance Committee (JVC) petition that requested, among other things, that the Guides state that it was deceptive to describe laboratory-created gemstones as "cultured." Some public comments supported JVC's position; others requested that the Commission expressly allow the use of the term. Although the Commission stated that some companies had used the term "cultured" to describe their laboratory-created gemstones for some time, it declined to either advise against or expressly allow the use of the term given the lack of consumer perception evidence. Id.

Therefore, the Commission looks to Petitioners' consumer perception surveys to decide whether marketers' use of the term "cultured" to describe laboratory-created diamonds is likely to deceive consumers. Petitioners contend that the three surveys they submitted demonstrate that the use of the term "cultured" to describe laboratory-created diamonds misleads consumers to their economic detriment.[9] These surveys, however, only address the unqualified use of the term "cultured" to market laboratory-created diamonds. As discussed above (see note 2), the Guides provide that it is unfair or deceptive to use the term diamond to describe a man-made stone that possesses essentially the same physical, optical, and chemical properties as natural, mined stones, unless it is qualified by the word "laboratory-created," "laboratory-grown," "[manufacturer-name]-created," or "synthetic." Therefore, any advertisement using the term "cultured" to describe a laboratory-created gemstone would not be consistent with the Guides if it failed to also include one of these four qualifying terms. The Petition does not allege, and the Commission has no evidence demonstrating, that these terms inadequately inform consumers that a gemstone is man-made. Accordingly, the Commission must determine whether a marketer's use of the term "cultured" in conjunction with the qualifications currently provided in the Guides is deceptive.

The surveys, however, did not evaluate consumer perception of the terms "laboratory-created," "laboratory-grown," or "synthetic" in conjunction with the term "cultured."[10] Based upon this record, the Commission cannot conclude that a clear and conspicuous disclosure that the stones are laboratory-created or laboratory-grown, as the Guides currently suggest, is insufficient to qualify a "cultured diamonds" representation and thereby avoid deception.[11]

B. Unfairness

Petitioners also allege that use of the term "cultured diamonds" is unfair. An act or practice is unfair, under Section 5 of the FTC Act, if it causes or is likely to cause substantial injury to consumers that is not reasonably avoidable and not outweighed by countervailing

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[9] Petition at 1-2, 13.

[10] The 2002 survey includes one question that probes consumer perception of the term "laboratory-created" alone, and the responses indicate that consumers understand the term. Petition, Attachment A, Question 4 (finding that only 0.7% of consumers believe that laboratory-created diamonds refer to "real diamonds," defined as those "mined from the earth and untreated by man other than for cutting and polishing").

[11] At the same time, the Commission does not conclude that the use of the term "cultured" by itself is sufficient to qualify the term "diamond" when describing stones created in a laboratory. The Commission was not asked to evaluate whether "cultured" may be used alone to qualify the term "diamonds." The Guides provide that certain qualifying language is necessary to describe diamonds that are not mined from the earth, and marketers should continue to follow this guidance. See 16 C.F.R. § 23.23.

benefits to consumers or competition.[12] Petitioners' unfairness analysis is essentially a restatement of their deception argument. Petitioners state that use of the term "cultured" is misleading to consumers and, therefore, causes injury to consumers that is unavoidable.[13] Because the evidence does not show that use of the term "cultured," with the qualifications provided in the Guides, is misleading, the Commission cannot conclude that use of the term is likely to cause substantial consumer injury. Accordingly, the Commission cannot find that the use of the term "cultured diamonds" is unfair.

C. International Harmonization

Although it is not appropriate to amend the Guides based on the current record, the Commission nevertheless considers Petitioners' argument that the proposed amendment would harmonize the Guides with international standards.[14] In support of this argument, Petitioners state that a number of foreign governments and international jewelry organizations advise against, or restrict, the use of the term "cultured" to describe laboratory-created gemstones.[15] These foreign decisions, however, take a different approach than the Guides and, in some instances, may not be based on a deception or unfairness standard.

A number of the foreign standards cited in the Petition take a more restrictive approach to describing laboratory-created diamonds than the current Jewelry Guides. For example, a French decree, the CIBJO international nomenclature standards, a World Diamond Congress resolution,

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[12] 15 U.S.C. § 45(n); see Unfairness Policy Statement, appended to Int'l Harvester Co., 104 F.T.C. 949, 1070 (1985).

[13] Petition at 23-24.

[14] The Trade Agreements Act of 1979 states that no federal agency "may engage in standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States" and that federal agencies must, in developing standards "take into consideration international standards and shall, if appropriate, base the standards on international standards." 19 U.S.C. §§ 2532, 2532(2)(A). The term "standard" in the Act includes guidelines that are not mandatory, such as the Jewelry Guides. 19 U.S.C. § 2571(13). The Act provides, however, that "the prevention of deceptive practices" is an area where basing a standard on an international standard "may not be appropriate." Id. at § 2532(2)(B)(i)(II).

[15] Petition at 25. The Petition cites decisions from Australia, France, and Germany, as well as the World Jewelry Confederation (also known as CIBJO), the World Diamond Congress, and the Gemological Institute of America (GIA). Id. at 25-26. Contrary to the Petition's assertions, Australia's Jewelry Guide does not prohibit use of the term "cultured" to describe laboratory-created gemstones, but advises that it "*risks* being misleading and deceptive," and suggests that marketers seek independent legal advice before using the descriptor. A Guide to the Trade Practices Act: Advertising and Promotion in the Jewelry Industry, Australian Competition & Consumer Commission (Aug. 2005) at ii. Therefore, it is not clear that there is any current conflict between the two Guides. The other cited decisions are discussed below.

and GIA practices each state that marketers should use the term "synthetic" to describe diamonds with essentially identical properties as natural stones.[16] The term "synthetic," however, is problematic. When the Commission added the terms "laboratory-grown," "laboratory-created," and "[manufacturer-name]-created" to the Guides in 1996, the record indicated that "synthetic" is a potentially confusing term, i.e., consumers associate synthetic gemstones with imitation stones. The Commission determined that these other terms ("laboratory-grown," etc.) would more clearly communicate the nature of the stone.[17]

The Jewelry Guides, therefore, state that these gemstones may be described as synthetic, laboratory-grown, laboratory-created, and [manufacturer-name]-created. The Commission has no evidence that these latter three terms are deceptive and Petitioners do not request we eliminate them from the Guides's list of permissible qualifiers. Thus, even if the Commission were to amend the Guides to address the use of the term "cultured," it would not achieve harmony with these foreign standards that only allow use of the term "synthetic."

In addition, the international jewelry associations discussed in the Petition may base their standards on factors other than deception or unfairness. For example, the World Diamond Congress consists of members of the natural diamond industry who meet regularly to develop ethical business programs.[18] Therefore, these associations' standards may serve a different purpose than the Commission's Guides.

Accordingly, although harmonization with international standards is generally preferred, where, as here, the Commission's analysis of consumer perception data reveals that there is insufficient evidence to determine that a particular representation is deceptive or unfair, the Commission will not prohibit the representation solely to harmonize with international standards.

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[16] Petition at 25-26. The German court decision cited in the Petition takes a slightly different approach, advising that these gemstones must be described as synthetic, artificial, or man-made. See Landgericht Muenchen I (Regional Court for Munich I), 1. Handelskammer (First Chamber of Commerce), Case Number 1HK 0 9640/04 at 1573-1574.

[17] See 61 Fed. Reg. at 27209; see also Letter from Apollo Diamond to James Kohm and Robin Spector, at 2 n.3 (June 18, 2007) (explaining that "synthetic" is synonymous with descriptors such as "fake," "ersatz," "phony," and "counterfeit").

[18] See 31st Congress, New York 2004 Resolution; see also News Update, Edition 10 June 2007, World Federation of Diamond Bourses, *text of a speech by Ernest Blom*, at 6-7. Similarly, although one of CIBJO's goals is to protect consumer confidence, the standards are not necessarily based solely on preventing deception and may include ethical business practices. http://www.cibjo.org/index.php?option=com_content&task=view&id=95&Itemid=198.

Conclusion

After reviewing the Petition and the consumer perception surveys upon which Petitioners rely, the Commission declines to amend the Guides to state that it would be unfair or deceptive to use the term "cultured" to describe gemstones created in a laboratory. Even if the surveys demonstrate that the unqualified term is misleading, a question the Commission does not reach, there is no evidence to suggest that the use of qualifying language in the Guides fails to render the term non-deceptive. In addition, the Commission concludes that there is insufficient evidence to establish that the qualified use of the term "cultured diamonds" is unfair. The Commission staff will continue to evaluate advertising for "cultured diamonds" on a case-by-case basis and recommend enforcement action when appropriate.

Thank you for your interest in this issue.

By direction of the Commission.

Donald S. Clark
Secretary

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