

INFO SESSION

*DISCLOSURE OF SYNTHETIC, TREATED
NATURAL AND NATURAL DIAMONDS*

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Index

- I. Mission statement
- II. Action
- III. Duties of all members
- IV. Invoice descriptions & declarations
- V. Inspections
- VI. Members' duties
- VII. Prevailing Law
- VIII. Legal actions and sanctions
- IX. Dissemination of information
- X. Empty certificates
- XI. Case law



Mission statement

“Seeking to provide the global trade in diamonds of natural origin with a robust, reliable and effective system for protecting the consumer and the trade of natural diamonds from undisclosed synthetic and treated natural diamonds.”

(Source: WFDB)



Action

Agreement between stakeholders (mining companies, diamond manufacturers, traders, diamond bankers and WFDB):

- the global diamond industry is based upon the absolute confidence of retailers and consumers when buying diamonds of natural origin;
- the WFDB has approved its Charter which stipulates and prescribes the rules regarding disclosure of diamonds in whatever form they may be traded.

The WFDB Charter was signed on May 2nd, 2014.



Duties of all members

The duties of all members of the 4 Antwerp Diamond Bourses:

- **To act in a transparent and accountable manner** with regards to the trading and the disclosure of diamonds whether natural, synthetic and/or treated natural diamonds;
- **Providing a proper description and declaration** on every all invoice attesting to the nature of the diamonds sold;
- **Reporting immediately** through the appropriate Bourse, to any activity that may be in contravention hereof.



Description

Member's invoices and memos must define the product:

- "rough natural diamonds", or
- "polished natural diamonds", or
- "polished treated natural diamonds", or
- "rough synthetic diamonds" or
- "polished synthetic diamonds" or
- "rough treated natural diamonds".



Declaration

- **Sales invoice:** every member shall state on every issued **invoice** or similar document related to natural diamonds - *"The diamonds herein invoiced are exclusively of natural origin and untreated based on personal knowledge and/or written guarantees provided by the supplier of these diamonds."*
- **Memo / Consignment:** every member shall state on every **memo** note or similar document related to natural diamonds - *"The diamonds herein on memo are exclusively of natural origin and untreated based on personal knowledge and/or written guarantees provided by the supplier of these diamonds."*



Supporting Statement

In those cases where a client/retailer insists on every stone being tested and wishes a **supporting statement**, the following text may be used:

"On behalf of (Supplier name), and with its full authority, I declare by way of this written assurance that the diamonds (invoiced/sent by memo) and contained herein are exclusively natural diamonds meaning that the referenced (parcel/box) contains no synthetic diamonds or diamonds that have been treated."



Inspections

The WFDB recommends that unless otherwise agreed between the parties a period of 30 working days is granted during which a buyer is assumed to have had the time required to conduct any independent testing.



Members' duties: *Cooperation (1/3)*

Every member will act responsibly and in a transparent manner in protecting the integrity of their supply chain and will immediately report to their appropriate Bourse authority any incidence of the introduction /appearance of undisclosed synthetic or treated natural diamonds offered as natural diamonds.

A member encountering undisclosed synthetic or treated natural diamonds will report this, without delay, to their Bourse and the Bourse will co-ordinate any subsequent actions with the member.

There will be immediate recourse to the applicable sanctioning authority in any case where a member does not cooperate as prescribed herein.



Members' duties: *Due diligence (2/3)*

Every member will be required to implement **adequate control systems** with regards to monitoring trading in diamonds, to **protect their supply chain from breaches in disclosure**. These systems may be **internal processes** and/or provided by **external screening services**.



Members' duties:

Responsible conduct and reporting (3/3)

Every member shall cooperate fully with the Bourse authorities to trace where any infiltration of synthetic and/or treated natural diamonds into the trading of diamonds of natural origin may occur.



Prevailing law

Each Bourse must **verify the prevailing national laws** regarding the undisclosed offering and/or sale of synthetic diamonds and treated natural diamonds offered and/or sold as natural diamonds.

The WFDB recognizes that **all conditions introduced are subject to the local laws** of each country and/or subject to any other agreement reached between the seller and buyer.



Aspects of Belgian law (1/3)

Civil law:

- Principle 1: The seller has to deliver goods which have to be in conformity with the sales agreement (article 1604 CC).
- Principle 2: Ownership and risk for the goods normally transfer from the seller to the buyer on the moment the parties agree on price and object (article 1583 CC).
- Principle 3: It is possible to postpone the transfer of ownership and risk in the sales agreement.



Aspects of Belgian law (2/3)

Civil law:

How to apply the principles in the industry's practice?

- Principle of Mazal: ownership and risk transfer from moment of Mazal;
- Inspection (30 working days).

Assumption: The goods are not in conformity with sale.

Consequence: there has been no correct delivery:

Remedies:

- A. Buyer returns the goods and claims dissolution of the agreement;
- B. Buyer returns the goods and asks new delivery of correct goods.

N.B.: in both cases buyer may also claim damages.



Aspects of Belgian law (3/3)

Criminal law:

Delivery of a good different from the object of sale may qualify as fraud and is punishable by law with imprisonment from a month to a year and with a fine of 50 to 1000 euros (article 498 criminal code).

In case the goods are sold accompanied by a (falsified) certificate the seller has committed a falsification of documents, which is punishable by law with imprisonment from 5 to 10 years (article 196 criminal code).



Legal actions

In case of proven failure to disclose, the responsible Bourse will:

- consider this to be an offense under the governing laws of the host country; and
- seek application of the legal authority of the country concerned to prosecute offenders with the full force of national law.

The WFDB, through its member Bourses, shall:

- petition the relevant authorities to identify and classify a failure to provide the correct disclosure descriptions on any document provided for purposes of export and import and trading of diamonds as fraud.



Sanctions (1/2)

Is based on the concept of willfull conduct.

In case of fraud:

In any case where the Bourse has decided there has been an infraction by a member based on gross neglect or purpose, the responsible Bourse will have immediate recourse to **its disciplinary Bourse procedures** which it will implement with the full force of its authority.

Subject to due process, this may include:

- expulsion;
- notification to the local market;
- notification to all Bourses around the world through the WFDB;
- notification to police and investigating authorities in relevant jurisdictions.



Sanctions (2/2)

In case of innocent infraction:

Any member found to be unknowingly selling an undisclosed synthetic or treated natural diamond as a diamond of natural origin, shall be **investigated**.

Two possibilities:

- If the member can substantiate, with full supporting documentation that he/she abided by the applicable rules for buying and selling diamonds of natural origin with full disclosure, the person may be **cautioned**;
- In the case of the lack of substantiation, the Charter's policy will be implemented with the appropriate disciplinary action.



Dissemination of information

- The WFDB Charter is to be **integrated into the Code of Conduct** of the 4 Antwerp Diamond Bourses and shall be a condition of Bourse membership.
- The WFDB Charter will be **disseminated** to all members of the 4 Antwerp Diamond Bourses who will be made fully aware and cognizant of their responsibility.
- Members must **adhere** to the WFDB Charter.
- In the case of serious offences, incidents or relevant news, full details must be provided together with an account of the actions taken by the Bourse.



Empty certificates

- Members of the 4 Antwerp Diamond Bourses may not trade and/or distribute diamond grading reports/certificates, which are not or would not be eventually accompanied by the corresponding diamond (henceforth referred to as "empty certificates").
- Any abuse/infringement exposes the respective individual and/or company to severe sanctions by any of the disciplinary bodies of the 4 Antwerp Diamond Bourses and by extension by the other Bourses in the world affiliated to the WFDB.
- Furthermore, the concerned Antwerp Diamond Bourse may promptly notify the local judicial authorities.





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