AWDC
ANTWERP WORLD DIAMOND CENTRE

Q&A

KIMBERLEY PROCESS

GUIDE FOR FINANCIAL INSTITUTIONS ON KIMBERLEY PROCESS CERTIFICATES

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GUIDE FOR FINANCIAL INSTITUTIONS ON KIMBERLEY PROCESS (CERTIFICATES)

This document is meant as a guideline for the most frequently asked questions by banks related to the (implementation of the) Kimberley Process Certification Scheme in Antwerp. Please note that these questions and answers are merely meant as guidelines and do not claim to hold the answer to any specific cases banks may be presented with.

For further information or questions related to the Kimberley Process, contact AWDC's **Compliance/Banking Helpdesk** via trst@awdc.be

TABLE OF CONTENTS
Q&A
Kimberley
Process

CONTENTS

GUIDE FOR FINANCIAL INSTITUTIONS ON KIMBERLEY PROCESS (CERTIFICATES)

1. What is a Kimberley Process Certificate? 1
2. What is the Kimberley Process Certification Scheme meant for? 3
3. Is a KPC a certificate of origin? 4
4. Do all Kimberley Process Certificates look the same? 5
5. For which type of trade can a Kimberley Process certificate (copy) be requested by a bank? 6
6. Are Kimberley Process certificates made for trade in rough synthetic diamonds? 7
7. Are Kimberley Process certificates made for diamond powder? 8
8. Will diamond traders always be able to present a Kimberley Process Certificate (or copy) to their bank when transacting in rough diamonds? 9
9. Which information is required for a KPC to be issued? 11
10. Can a bank be requested to facilitate prepayments for rough diamonds? 12
11. What is the best way to proceed if the diamond trader wishes to pay his supplier in several installments for rough diamonds to be imported? 15
12. Is there a website which can be consulted to check (potential) counterparties of banks' clients? 16
13. What is a bank's responsibility regarding the checking of a Kimberley Process Certificate? 17
14. Are there particular elements which may indicate a KPC is false/fraudulent? 19
15. Are fake KPCs prevalent? 21
16. If the KPC is a fake document, does this mean the Belgian trader presenting this is involved in an illegitimate transaction? 23
17. Is it possible that there is a difference between the value mentioned on a KPC and the value mentioned on a (pro forma) invoice? 24
18. Is it normal that a KPC accompanies the consignment of rough diamonds but not the final invoice? 26
19. How can one know that rough diamonds are conflict-free if they have been saved in a bank or safe and are to be sold only numerous years later? 27
20. What if no KPC is available for the transaction or if the rough diamond is polished – is there another type of guarantee which the bank can check to have comfort that the diamonds are no conflict diamonds? 28
21. Further questions? 29

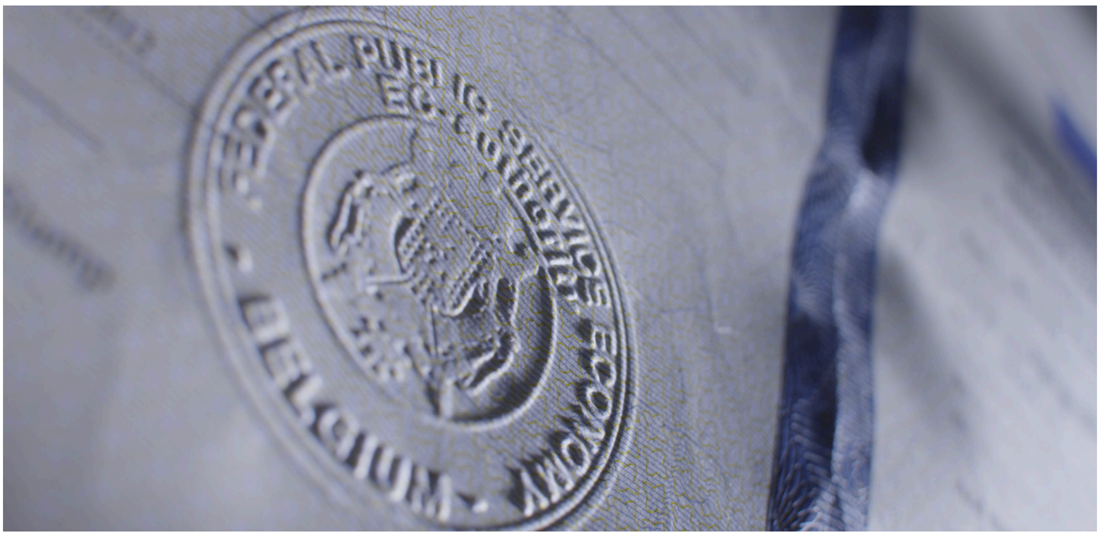
1.

What is a Kimberley Process Certificate?

A **Kimberley Process Certificate (KPC)** is a document which warrants the conflict-free origin of rough diamonds.

It is issued by an (exporting) Kimberley Process authority, a governmental body which carries out an inspection of the stones to verify and attest their conflict-free origin, at the moment of export of rough diamonds out of the country. When these rough diamonds are imported into another country that is participant to the Kimberley Process, the parcel and the certificate are again subjected to a scrutiny by an (importing) Kimberley Process authority which verifies the authenticity of the certificate and the integrity of the parcel.

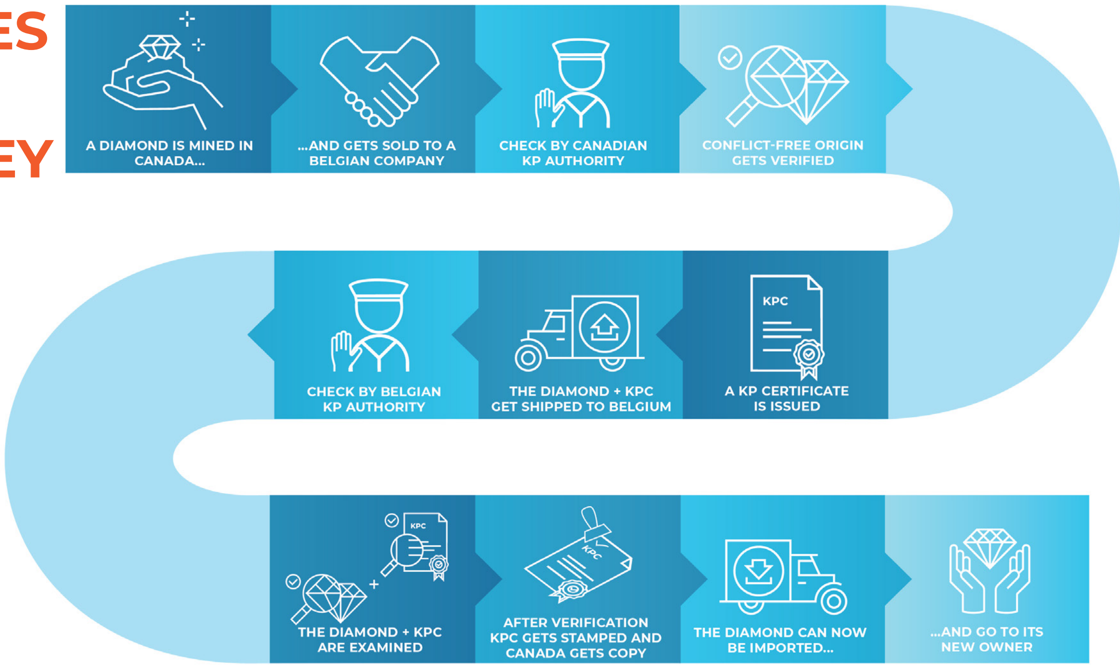
Example 1 A rough diamond is sourced from mines in Canada. A Canadian diamond trading company sells this diamond to a Belgian company. Before the diamond can be shipped, the Canadian KP authority needs to verify and attest the diamond's conflict-free origin. If approved, it will draw up a Kimberley Process Certificate (KPC). This certificate accompanies the tamper-resistant container in which the diamond is shipped to Belgium. Once arrived in Belgium, the Belgian EU KP authority (the FPS Economy operating in Diamond Office) will then check the integrity of the parcel and whether the KP Certificate is authentic. If so, it will stamp the KPC, release the diamond for import by the Belgian diamond trading company and notify the Canadian KP authority of receipt of the parcel and KPC. Over and above the required KP administrative handling of this parcel, normal export (Canada) and import (Belgium) customs procedures apply.



1.

What is a Kimberley Process Certificate?

HOW DOES THE KIMBERLEY PROCESS WORK?



Example 2 If we take a similar situation to the previous example, but instead the goods are first sold from Canada to Dubai and subsequently from Dubai to Belgium, there will be two KPCs issued and 3 KP authorities involved. Before the diamond can be shipped from Canada to Dubai, the Canadian KP authority verifies and attests the diamond's conflict-free origin. It draws up a KPC. This certificate accompanies the tamper-resistant container in which the diamond is shipped to Dubai. Upon import in Dubai, the Dubai UAE KP authority checks the integrity of the incoming parcel and whether the KP certificate is indeed authentic. If approved, it will then release the diamond for import by the Dubai company and confirm receipt of the parcel and KPC to the Canadian KP authority.

If the Dubai company subsequently sells the rough diamond to a Belgian diamond trading company, the Dubai UAE KP authority will inspect the conflict-free origin of the goods and draw up a KP certificate attesting this before the diamond can be exported. This (second) KPC will accompany the shipment to Belgium. Once arrived in Belgium, the Belgian EU KP authority (the FPS Economy located at Diamond Office) will then check the integrity of the parcel and whether the KP Certificate is authentic. If so, it will stamp the KPC, release the diamond for import by the Belgian diamond trading company and notify the Dubai UAE KP authority of receipt of the parcel and KPC.

2.

What is the Kimberley Process Certification Scheme meant for?

Kimberley Process authorities are the competent bodies which scrutinize import/export shipments of rough diamonds and draw up Kimberley Process certificates that accompany the shipment. These KP authorities are government bodies responsible for the scrutiny of rough diamonds to be exported resp. imported. Within the European Union, there are currently seven EU Kimberley Process authorities[1]. One of these is located in Belgium, which is the Federal Public Service of Economy (FPS Economy), operating in Diamond Office. The FPS Economy is thus the competent government body in Belgium that verifies rough diamond imports and that issues Kimberley Process Certificates for exports on behalf of the EU Commission that represents the 27 member states at the Kimberley Process.

The certificates for rough diamonds and the scrutiny of these diamonds by competent authorities are all measures to be taken within the **Kimberley Process Certification Scheme (KPCS).** This a scheme that has been set up by the Kimberley Process, a UN-backed joint government, industry and civil society initiative to regulate trade in rough diamonds and avoid trade in conflict diamonds. Within this initiative, it is only allowed for a Kimberley Process participant[2] to trade in rough diamonds with other Kimberley Process participants. All Kimberley Process participants are to fulfill certain minimum requirements in order to be able to participate in this initiative. All rough diamond shipments done between Kimberley Process participants are to be accompanied by a Kimberley Process certificate.

A Kimberley Process certificate thus guarantees that the rough diamonds in the shipment are not conflict diamonds. The definition of **conflict diamonds** is: 'rough diamonds used to finance wars against governments.' It is not a certificate of origin, nor a traceability instrument: it does not (always) mention where the diamonds have been sourced from.

The KPCS regulates the trade of rough diamonds only (not polished diamonds or diamond jewelry). Note that the term '**diamonds**' used throughout this document always refers to natural diamonds (minerals created by nature). The KPCS does not regulate trade in rough synthetic diamonds.

[1]The seven EU KP authorities are located in: Belgium, the Czech Republic, Ireland, Germany, Portugal, Romania and the United Kingdom (the latter still treated as member of the EU during the Brexit transition period) – latest update: April 2020.

[2]Kimberley Process participants are independent states or regional economic integration organisations (e.g. the EU). Currently, also the Rough Diamond trading Entity of Chinese Taipei (aka Taiwan) has been accepted as in conformity with the KPCS minimum requirements.

3.

Is a KPC a certificate of origin?

No. A Kimberley Process Certificate is not a certificate of origin. It only warrants the conflict-free origin of the goods, but it does not necessarily mention where the diamonds have been sourced from.

Kimberley Process Certificates used to include a field for ‘country of origin’ to be specified. However, this term led to confusion and debates, as this could be interpreted to either refer to the country of mining origin or the country of provenance.

To end this confusion, in 2018 this field was amended on all Kimberley Process Certificates. Nowadays, they include a field for the ‘country of mining origin’. This thus unmistakingly refers to the country where the diamonds have been extracted from. Note that this field can either be filled in, or not (if it is not specified, it is referred to as *************).

4.

Do all Kimberley Process Certificates look the same?

No. The layout of a Kimberley Process certificate is unique to each Kimberley Process Participant (country). A Kimberley Process Certificate issued by the KP authority of country A may look thus quite different from the KPC issued by the KP authority of country B. However, all EU KPCs issued by the different EU KP authorities all have the same layout (see Annex A to this document for an example of an EU Kimberley Process Certificate template). Certain elements are mandatory to be mentioned on all KP Certificates (e.g. specifications of the rough diamonds, exporter and importer, issuing KP authority, date of issuance of the certificate…).

There is no database publicly available to consult all different layouts of the Kimberley Process Certificates in existence. This measure has been taken to avoid counterfeited certificates. However, if a bank is presented a copy of a KPC and it doubts its authenticity, it can contact the focal point of the Kimberley Process authority at stake to confirm whether it indeed is an authentic Kimberley Process certificate[3].

Note that if rough diamonds are imported in Belgium, the Belgian EU Kimberley Process authority will always check whether the incoming parcel and the accompanying Kimberley Process certificate are integer and authentic. If they confirm all is KP compliant, the KP authority will take a copy of the KP Certificate issued by the foreign KP authority and stamp this as sign of approval (see Annex A to this document for an example). This copy is given to the importer. The original is kept by the KP authority itself. Banks servicing the Belgian diamond sector can thus almost always rely on such a stamped copy of the KP certificate as proof that the rough diamonds transacted were indeed conflict-free (see question 13).

[3]Please consult the following link to find the contact information of all Kimberley Process focal points: https://www.kimberleyprocess.com/en/2019-kp-focal-points (latest update: April 2020).

5.

For which type of trade can a Kimberley Process certificate (copy) be requested by a bank?

When a bank's client is **importing rough diamonds** (= of natural origin), the bank can request a copy of the Kimberley Process certificate from his client in order to verify whether the rough diamonds purchased, have indeed been scrutinized and approved by exporting and importing Kimberley Process authorities to confirm their conflict-free origin.

Note that in case of (*exceptional*) circumstances in which no KPC may be available for a shipment (e.g. exploration samples from which diamonds have extracted and for which diamonds there is thus no import KPC available, or e.g. for rough diamond jewelry), a letter of comfort can be issued by the KP exporting authority from where the exploration sample was shipped resp. by the KP focal point of the KP participant exporting a shipment that is not accompanied by a KPC (see Annex C on letters of comfort).

6.

Are Kimberley Process certificates made for trade in rough synthetic diamonds?

No. The Kimberley Process Certification Scheme only regulates trade in rough diamonds (which have been created by nature). The term ‘diamonds’ without further specification (in this document) always refers to **natural** diamonds.

Rough synthetic (or laboratory-grown) diamonds are not regulated by the Kimberley Process Certification Scheme and cannot obtain a Kimberley Process Certificate.

7.

Are Kimberley Process certificates made for diamond powder?

No. For (rough) diamond powder, no Kimberley Process Certificate is required. The Kimberley Process Certification Scheme only regulates trade in rough diamonds.

8.

Will diamond traders always be able to present a Kimberley Process Certificate (or copy) to their bank when transacting in rough diamonds?

No. Kimberley Process certificates are only issued for export from one Kimberley Process participant to another Kimberley Process participant. For trade of rough diamonds within one Kimberley Process participant, no Kimberley Process Certificates will be issued. **This means that once a rough diamond parcel has legitimately entered the territory of a Kimberley Process participant (accompanied by a KPC), it can further be transacted within the territory of this participant without a (new) KPC.** Reversely, this also means that a bank cannot expect its client to provide a KPC for such a domestic transaction, as there is no KPC available for these transactions.

Example When a rough diamond is exported from the Democratic Republic of Congo to Belgium, it will have to be accompanied by a Kimberley Process Certificate issued by the Congolese KP authority for the diamond to be exported to Belgium. This parcel and the accompanying certificate will be checked by the importing Kimberley Process authority in Belgium (the FPS Economy at Diamond Office). Upon approval, the FPS Economy will provide a stamped verified copy of the Congolese KPC to the importer in Belgium. When this stone is further transacted between the importing Belgian diamond trader and another Belgian or EU diamond trader, there will be no KPC for this domestic transaction in Belgium or within the 27 EU member states.

Note that the whole **EU is one Kimberley Process participant**, which means that for trade in rough diamonds within the EU, no Kimberley Process Certificates are issued. Only when the diamonds are exported from the EU to a Kimberley Process participant outside of the EU or vice versa, a Kimberley Process Certificate will be issued. See Annex B to this document, where a letter by the FPS Economy is attached, explaining the EU system for import and export of diamonds. It clarifies that KP Certificates are only issued when rough diamonds are imported/exported to/from the EU, and not when trading within the EU. However, for trade within one Kimberley Process participant (e.g. trade within the EU or domestic trade within Belgium), another type of guarantee is usually provided: a warranty mentioned on the invoice within the System of Warranties. See question 20 for more information.

8.

Will diamond traders always be able to present a Kimberley Process Certificate (or copy) to their bank when transacting in rough diamonds?

In other types of rough diamond transactions (transactions between different KP participants), a KPC must be issued to accompany the export shipment of one KP participant to the other participant. This is also needed in cases where no transaction is effectuated, but where rough diamonds are sent to another KP participant for manufacturing purposes.

Note, however, that in certain (mostly diamond producing) countries the KPC will only be issued by the KP authority after the payment for the rough diamonds is first received on a national bank account. Thus, in this case, at the moment of facilitating the payment, the bank will not (yet) be able to rely on a KPC for the rough diamonds (see question 10).

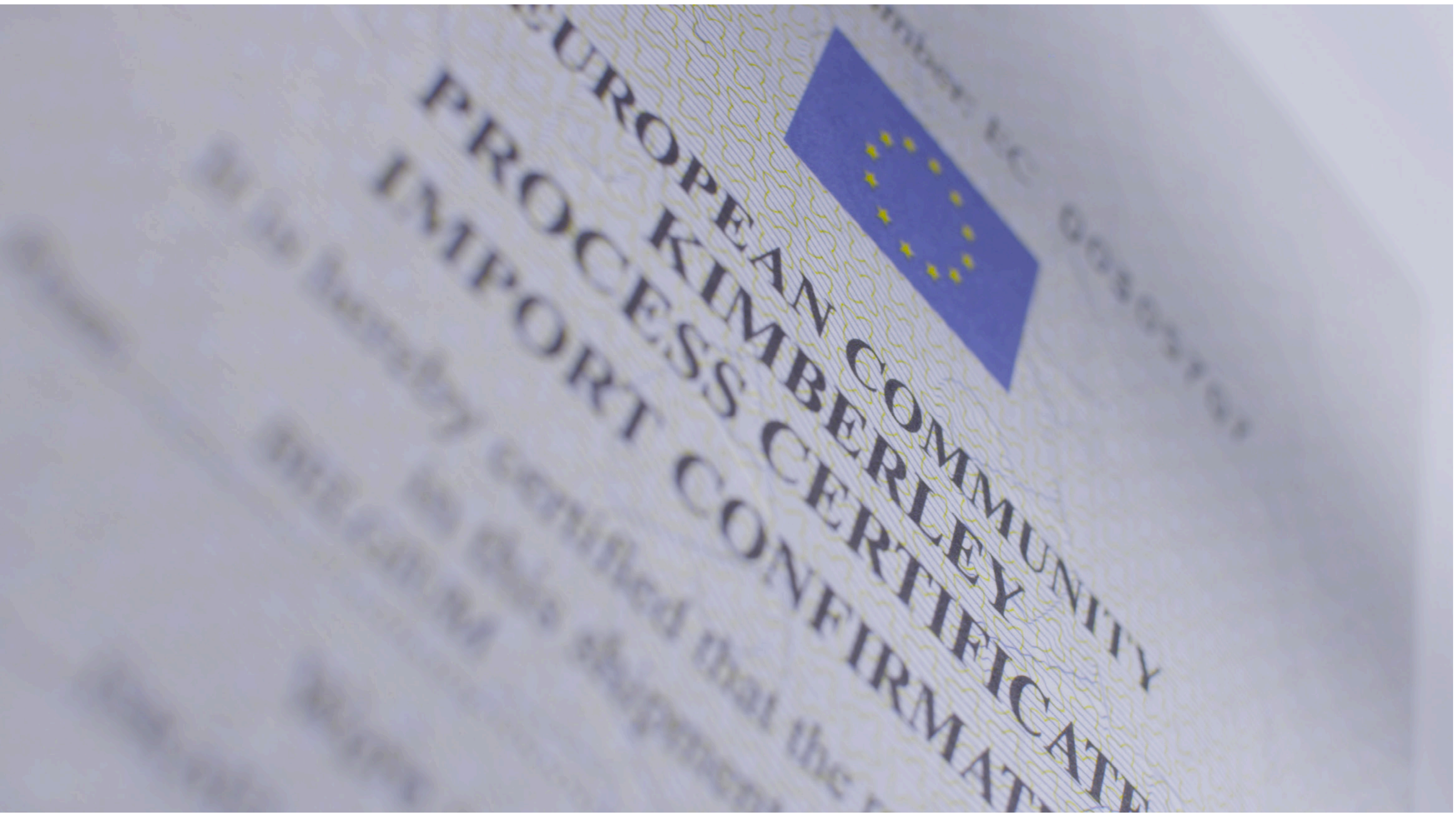
Note that in case of (*exceptional*) circumstances in which no KPC may be available for a shipment (e.g. exploration samples from which diamonds have been extracted at a dedicated laboratory in another KP participant) and for which diamonds there is thus no import KPC available, or e.g. for rough diamond jewelry), a letter of comfort can be issued by the KP exporting authority from where the exploration sample was shipped resp. by the KP focal point of the KP participant exporting a shipment that is not accompanied by a KPC (see Annex C on letters of comfort).

9.

Which information is required for a KPC to be issued?

Kimberley Process certificates are only issued when the supplier/exporter and the client/importer as well as the rough diamonds to be transacted have been identified. These details are always mentioned on a Kimberley Process certificate. It is thus impossible that a Kimberley Process certificate would be presented on which the name of the client/importer is not (yet) mentioned or on which the diamonds to be sold are yet to be specified. This is a red flag which could indicate a scam (see question 14).

Note that aside of the information above to be specified on a KPC, in most diamond producing countries, the national legislation (mining code) specifies that the payment for the rough diamonds needs to be received on a national bank account before the KPC is issued and thus before the rough diamonds can be exported (see question 10).



10.

Can a bank be requested to facilitate prepayments for rough diamonds?

A bank can be requested to facilitate a payment for rough diamonds before the goods are shipped to its client in Belgium. Hereunder we list most scenarios where this might occur:

THE MINING CODE OF THE COUNTRY STIPULATES THAT THE FUNDS SHOULD ENTER THE COUNTRY FIRST

This is common practice for **rough diamonds purchased from diamond producing countries**[4], as the mining code in most of these countries stipulates that first the funds for the diamonds must be received, before the diamonds can leave the country[5]. This is sometimes called a 'prepayment' required by the national mining code of the exporting country in order for the goods to be exported.

If such legislation applies, the final KPC will only be issued by the exporting KP authority when proof can be provided that the funds have indeed been received on a bank account within the exporting country. Up until that moment, the goods will not be allowed to leave the country's territory.

This means that if a Belgian diamond trader wishes to purchase and import goods from such diamond producing countries, he will first have to conduct the payment for the rough diamonds before the goods can be exported. At the moment of facilitating the payment, the bank will not yet be able to ask his client to present a KPC copy warranting the conflict-free nature of the goods. Usually, the only documentation that will be at hand at this stage, is at the most for example communication between the intended supplier and intended buyer about the stones, a purchase/sale commitment, a pro forma invoice, written guarantees by the supplier…

After the payment is executed and received in the producing country, the final KPC will be issued by the foreign KP authority and the goods will be released for export to Belgium.

[4]There is no official overview or list which can be consulted to see for which Kimberley Process participants such rules are imposed. This depends on the national legislation of each country. Commonly, most diamond producing countries have imposed such rules in their national mining code. The exact legislation applicable, needs to be assessed per KP participant individually.

[5]If such rules are imposed in the national mining code of the country, this usually applies to all minerals extracted from the country's territory and is not specific for diamonds. These measures are meant to ensure the country's revenue for minerals extracted from its territory which are subsequently exported and to avoid illicit financial flows. This is particularly pertinent for countries with a low financial/economic score.

10.

Can a bank be requested to facilitate prepayments for rough diamonds?

Upon import in Belgium, the FPS Economy at Diamond office will scrutinize the parcel and accompanying KPC. Upon approval, it provides a copy of the foreign KPC with a stamp of the FPS Economy to the buyer/importer (question 2 and see Annex A to this document for an example). The Belgian importer could thus present this stamped copy to his bank upon request, as proof of the conflict-free origin of the rough diamonds. Following the import, the Belgian EU KP authority will co nfirm the import of the rough diamond shipment accompanied by the KPC to the exporting KP authority of the issuing KP participant. This way, all exports and imports form a closed loop between exporting and importing KP authorities that is the best safeguard to avoid false KPCs.

Note that such a 'pre-'payment is not required in every Kimberley Process participant. Many other Kimberley Process participants (usually non-producing countries) do not have national legislation requiring receipt of the payment before rough diamonds can be exported. In case of rough diamond transactions with suppliers located in such countries, the KP authority will issue a KPC once the supplier and the client as well as the conflict-free nature of the goods to be exported have been identified and the goods will immediately be able to be released for export. However, note that often the Belgian importer will only obtain a copy of the KPC when the goods have been imported in Belgium and the FPS Economy has provided a stamped copy to him. It is possible that sometimes the exporter already provides a copy of the KPC before the parcel is shipped to Belgium and that he sends this to his Belgian client. U pon import in Belgium, however, the importer will always receive a stamped **copy** of the KPC by the FPS Economy as sign of KP compliance of the imported rough diamonds. The bank could thus always request for this stamped copy. Important note: In Belgium, the original KP Certificate is ALWAYS retained by the Belgian EU KP authority, i.e. the FPS Economy at Diamond Office, for safekeeping as required by the EU Regulation implementing the KPCS in the EU (EU-LEX Reg. 2368/2002).

THE EXPORTER DEMANDS PAYMENT BEFORE SHIPPING THE DIAMONDS

Aside of payments required by the national mining code of certain diamond exporting countries before the rough diamonds can be exported, it can also be the supplier who first requires receiving either the full payment or part of the payment before shipping the rough diamonds to his customer. This is common practice for big established mining companies such as Alrosa and De Beers. Also in this case, the bank could thus be requested to facilitate a payment for rough diamonds which have not yet been exported to its Belgian client.

10.

Can a bank be requested to facilitate prepayments for rough diamonds?

IN GENERAL

If a bank is requested to facilitate a payment for rough diamonds for which there is no KPC available yet, it could **take the following measures to get comfort** regarding the transaction:

If the foreign supplier indicates to his Belgian client that payment of the sum is required before the goods can be exported in compliance with the mining code in his country:

- Check whether the country where the supplier is located indeed has national legislation requiring that the payment should be received before minerals can be exported, or request proof of such legislation to be provided;

- Check whether the bank account to which the payment is requested to be done is indeed located in the producing country from where the rough diamonds are to be exported. The payment should always be received on a national bank account of the diamond producing country. It is thus not possible that the payment should be done to a bank account in another country;

> Example: A Belgian diamond trader is approached by a supposed diamond trader located in Sierra Leone. The supplier says a payment should be done in order for the rough diamonds to be able to be exported from Sierra Leone. He subsequently sends an invoice with a payment to be done to a bank account in the British Virgin Islands. This is a red flag and this could be an indication of a scam, as in this situation, payment would always have to be done to a bank account in Sierra Leone.

- Check whether the supplier is a reputable/reliable diamond trading company.

If it is the supplier requiring a (partial or whole) prepayment before he will export the rough diamonds to his Belgian client:

- Check whether the supplier is a reputable/reliable diamond trading company. As mentioned above, prepayments are commonly asked by big reputable companies such as Alrosa and De Beers. Certain Kimberley Process participants have made a publicly available database which can be consulted to check whether companies are indeed established diamond companies on their territory (see question 12);

- The bank should advise his client to make payments according to the guidelines explained in question 11.

11.

What is the best way to proceed if the diamond trader wishes to pay his supplier in several installments for rough diamonds to be imported?

The foreign supplier drafts an invoice and the Belgian client can pay the invoice in several installments (prepayments). In this case, the client should every time refer to the invoice number and mention which partial payment it relates to (e.g. invoice number 00001 – part 2). The AWDC Best Practice Guide[6] gives guidelines on how to conduct business transparently, which are strongly recommended to follow (e.g. where appropriate draft an agreement explaining the situation between supplier and client, make clear references when conducting payments etc.).

Usually once the total amount of the invoice is fully paid, the goods will be shipped by the supplier and will be imported in Belgium. The Belgian company will be able to provide a copy of the stamped KPC and the invoice to his bank once the goods are imported in Belgium.

It is also possible that the supplier will already ship the goods after a few prepayments have been carried out and before the full sum has been paid (for liquidity reasons). It may be unclear for the bank facilitating the transaction when exactly the goods will be shipped to its client. It is advisable that the bank clearly communicates its compliance policy to its clients in this regard, e.g. that the invoice number and number of partial payment should always be mentioned in the reference for the payment, that a copy of the KP certificate should be provided to the bank as soon as it is available. As such, the bank will be able to connect the payments with the invoice and with the KP certificate.

For measures which the bank can take to get comfort regarding the counterparty of its client, see question 10.

[6] AWDC Best practice guide for trade in the Belgian diamond sector (2019), available on the AWDC website.

12.

Is there a website which can be consulted to check (potential) counterparties of banks' clients?

Several KP participants have made a website/list available of diamond companies registered on their territory. On the following websites, the names can be found of companies that trade in (rough) diamonds:

BELGIUM

www.registereddiamondcompanies.be

(all registered diamond traders, polished and rough, can be searched on the name of the company through this database)

ISRAEL

http://www.get-diamonds.com/DiamondCompaniesIndex?c0=6&searchboxex=1&f11344=0

(by logging in on this website, the list of diamond companies registered in Israel can be consulted)

UAE

http://www.dmcc.ae/gateway-to-trade/commodities/diamonds/kimberley-process/kp-membership/uae-kp-members

(companies that trade in rough diamonds outside of the UAE can usually be found on this website. Note that in the UAE there are multiple free-trade zones. However, DMCC and DAFZA are the only secured free trade zones for rough diamonds to and from the UAE. Although entry/exit of rough diamonds can only happen via these zones in Dubai, intra-Emirate shipping is legal and KP compliant. This means that diamonds can be transacted and shipped between DMCC resp. DAFZA on the one hand and other Emirates of the UAE on the other hand, such as Abu Dhabi, Sharjah and Ras-al-Kajmah. It is rather atypical for companies registered outside of DMCC and DAFZA to trade in rough diamonds internationally, but it can occur and need not necessarily mean non-KP compliance. Usually UAE diamond companies internationally trading in rough diamonds would make their name available on abovementioned website).

13.

What is a bank's responsibility regarding the checking of a Kimberley Process Certificate?

If rough diamonds have been legally imported into Belgium, banks can in principle always rely on a stamped and validated KPC copy which has passed through the importing KP authority, FPS Economy operating in Diamond Office (see Annex A to this document for an example).

In Diamond Office, the authenticity of the certificate and the integrity of the parcel are checked. If approved, a copy is taken of the original KPC and stamped as confirmation of approval. This stamped and validated copy is given to the Belgian diamond trader who has imported the stones, which he could present to his bank upon request. The bank can thus in principle almost always rely on this stamped copy and need not check the authenticity of the certificate itself.

However, as explained above (question 10), if rough diamonds are purchased directly from Kimberley Process participants which are diamond exporting countries, the national mining code of these countries will almost always require that the payment for the rough diamonds should be received on a national bank account before the rough diamonds can be exported. That means that the bank should facilitate the payment before the final KPC is available and before the rough diamonds are exported. After the payment is carried out, the final KPC will be issued and will accompany the export shipment of the diamonds to Belgium. Upon import, the stamped and validated KPC copy will also be handed to the Belgian importer upon approval.

In exceptional cases, it is possible that a KPC could be presented to the bank which has not first been checked and validated by the FPS Economy.

Example 1 When the exporter/supplier in the producing country obtains a copy of the KPC issued by the exporting KP authority in this country before the parcel with KPC is shipped, he takes a copy of this and sends this copy to his Belgian client. The Belgian client could present this copy to his bank and request for the payment to already be executed while the goods are transported to Belgium. If the goods are imported through Belgium, however, the client/importer will after inspection by the FPS Economy operating in Diamond Office, also always receive a stamped and validated copy.

13.

What is a bank's responsibility regarding the checking of a Kimberley Process Certificate?

Example 2 It is possible that the rough diamonds were transported from producing country X to importing country Belgium through personal transport. Upon arrival with the goods at Zaventem airport, a picture could be taken of the KPC accompanying the parcel, in which stage it will not yet have been validated and stamped by the FPS Economy operating in Diamond Office. However, similar to the example above, the goods will have to be presented to Diamond Office for verification of the import. The client will be able to present this copy of the stamped KPC to his bank, after import of these goods into Belgium.

Example 3 It could also be the case that the parcel was imported through one of the other EU KP authorities than through the one located in Belgium and that some of these other EU authorities don't work in exactly the same way as Diamond Office does[7]. For example, it could be the case that the importer receives the original KPC upon import of the goods and that the other EU KP authority does not stamp or copy the original KPC, as the KP authority in Belgium does. These would be exceptional cases as most import for Belgian traders enters through Belgium. The bank could ask its client for additional information explaining this situation or ask his client to always import rough diamonds via Belgium (through Diamond Office).

If a bank is confronted with a (copy of) a certain KP certificate and it questions the authenticity of the certificate, it can always get in touch with the EU Kimberley Process authority to obtain confirmation whether the certificate is indeed an authentic certificate. The contact details of the EU KP authority located in Belgium are the following:

Algemene Directie Economische Analyses en Internationale Economie
Directie Nijverheid – Diamant (Dienst Vergunningen)
Italiëlei 124 bus 71, 2000 Antwerpen
Tel: +32 2 277 99 00
Fax: +32 2 277 98 70
E-mail: kpcs-belgiumdiamonds@economie.fgov.be

[7] There is no information publicly available on how exactly other KP authorities proceed in this regard. As to AWDC's information however, in the United States, for example, there is no KP authority which checks the authenticity of the certificate and the integrity of the parcel upon import in the States, nor does such an authority keep the original KPC and provide a stamped copy to the importer. It is the importer's responsibility to handle the import/export in compliance with the KP regulations and to keep the original KPC for a period of 5 years.

14.

Are there particular elements which may indicate a KPC is false/fraudulent?

A Belgian bank can be sure a transaction relates to conflict-free rough diamonds and was imported in a KP compliant and legal way if his client can present a stamped copy of the KPC relating to these rough diamonds (see Annex A to this document for an example – banks servicing Belgian diamond traders can almost always rely on such a stamped KPC copy, as explained in question 13) and if the details mentioned on the import customs declaration are the same as mentioned on the invoice (in case of a sale) / on the bill of lading, pro forma invoice or consignment note (in case of a consignment) with regard to the following information:

- Weight
- Value
- Number and date of the KP certificate (stated on the Customs document in tab 44 after the code L116)

Important elements to note with regard to the KPC:

- In the Belgian context, banks can almost always be provided a validated copy of the KPC stamped by the FPS Economy operating in Diamond Office (see question 13; for deviations, see questions 8 and 10).

- A KPC can only be drafted when the exporter, importer, price and the goods are identified. It is thus never possible that a KPC is already available when the supplier and the client have not been in touch yet.

Example Should a supposed rough diamond supplier contact a Belgian diamond trader for the sale of certain rough diamonds and already present a KPC copy to his potential client to convince him to buy particular goods of him, this is a red flag and could be an indication of a scam, since the KPC will only be issued by the KP authority once this information is known.

- It is possible that the value of the diamonds mentioned on the KPC and the value mentioned on the invoice are not the same. Please refer to question 17 for more information on such potential discrepancies.

14.

Are there particular elements which may indicate a KPC is false/fraudulent?

• If the Belgian diamond trader wishes to buy stones from a supplier located in a Kimberley Process participant that is a diamond producing country in which the national mining code requires the payment should be received before the rough diamonds can be exported, or when a Belgian diamond trader wishes to buy stones from a foreign supplier who first wants to receive the payment before he exports the rough diamonds, it is normally not possible that a copy of the KPC is already presented to the Belgian diamond trader before the payment is executed.

Example A Belgian diamond trader is approached by a supposed supplier located in the territory of a Kimberley Process participant which's national mining code requires receipt of the payment for the rough diamonds before they can be exported, e.g. in Guinea, for a rough diamond transaction. The Guinean supplier sends the Belgian trader information about the rough diamonds to be transacted along with a copy of the KPC for the stones and requests the Belgian trader to do the payment. This is a red flag and could be an indication of a scam, because at this stage there is normally no KPC available yet (will normally only be available after the payment has been received). Note that the importer and exporter as well as the rough diamonds always already need to be known before a KPC is issued.

• If the Belgian diamond trader wishes to buy stones from a supplier located in a Kimberley Process participant that is a diamond producing country in which the national mining code requires the payment should be received before the rough diamonds can be exported, this payment will always need to be received on a bank account in the producing/exporting country. It is thus not possible that a prepayment would have to be sent to bank account located in a different country.

Example A Belgian diamond trader is approached by a supposed diamond trader located in Sierra Leone. The supplier says a payment should be done in order for the rough diamonds to be able to be exported from Sierra Leone. He subsequently sends an invoice with a payment to be done to a bank account in the British Virgin Islands. This is a red flag and this could be an indication of a scam, as in this situation, payment would always have to be done to a bank account in Sierra Leone.

15.

Are fake KPCs prevalent?

Actual fake KPCs attempted to use as documents to import/export rough diamonds are very rare. Only 1 such case has been detected in Belgium over the last 15+ years, which parcel has been confiscated at Diamond Office. Note that Belgium has the most thorough scrutiny system for diamond shipments in the world, as every incoming and outgoing parcel of rough diamonds is checked by diamond experts and the value on the invoice and KPC is checked against the actual value of the diamonds. Other Kimberley Process participants also conduct checks, but not as in-depth and/or only on a risk-based approach.

However, every now and then communications circulate that 'fake' KPCs have been intercepted and a copy of such 'fake' KPCs is shared within the diamond sector to warn for these. The diamond bourses and AWDC share such information with the sector / the banks servicing the sector when they are informed of the use of false KPCs by the KP Secretariat or KP Authority. Note that these messages warning for false KPCs almost always relate to scams (computer fraud) in which this (fraudulent) KPC is sent to traders to request them to do a payment for the diamonds supposedly described in the KPC, which, however, is a frauded document. These documents are not used to ship actual goods from country A to country B. It thus does not concern an actual 'fake' KPC, but rather a 'fraudulent' KPC. Please note that communication in this regard does not always distinguish the difference between such fake and fraudulent KPC well. In over 90% of the cases, communication relating to a so-called 'fake' KPC, actually refers to a fraudulent KPC (almost always a 'Nigerian scam').

If a trader is contacted by a supposed supplier who offers rough stones for sale and sends him a KPC as 'proof' of the stones existence/readiness to be shipped without agreement between both parties on the goods/price, this is a red flag and could be an indication of a scam (see question 14).

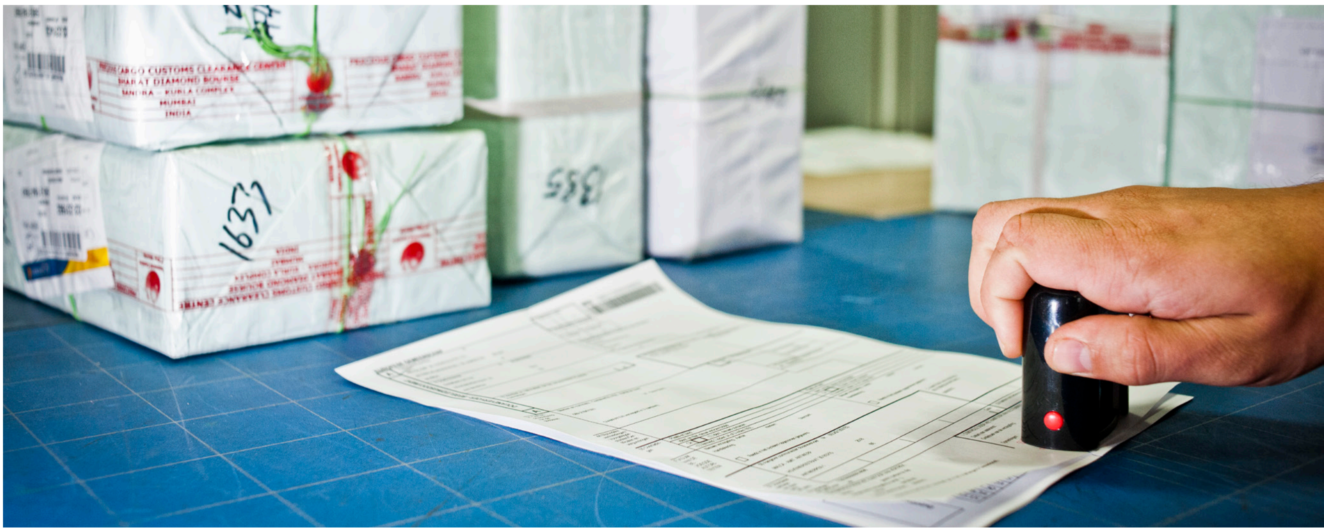
15.

Are fake KPCs prevalent?

If a bank is confronted with a (copy of) a certain KP Certificate and it questions the authenticity of the certificate, it can always get in touch with the EU Kimberley Process authority to obtain confirmation whether the certificate is indeed an authentic certificate. The contact details of the EU KP authority located in Belgium are the following:

Algemene Directie Economische Analyses en Internationale Economie
Directie Nijverheid – Diamant (Dienst Vergunningen)
Italiëlei 124 bus 71, 2000 Antwerpen
Tel: +32 2 277 99 00
Fax: +32 2 277 98 70
E-mail: kpcs-belgiumdiamonds@economie.fgov.be

As mentioned before (see question 10), the Belgian EU KP authority is best placed to verify and confirm the validity of any KP Certificate issued by any KP Participant. Besides having detailed information regarding the layout and security features of all KP Certificates, the Belgian EU KP authority is in direct contact with all KP authorities and confirms the arrival of all KP Certificates. Any missed or fake KP Certificate that would be confirmed to the so-called issuing KP authority would raise a red flag and would be declared a falsification. This export/import confirmation directly links the exporting and importing KP authorities and is the strongest tool in the KPCS's toolbox to fight certificate fraud.



16.

If the KPC is a fake document, does this mean the Belgian trader presenting this is involved in an illegitimate transaction?

This could be the case indeed, but as described above (question 14), it is more likely that it concerns a situation in which the trader is scammed by the counterparty.

In case of such a scam, the counterparty attempts to receive a payment from the diamond trader by sending him information and pictures of rough diamonds along with a KPC as proof of the existence and conflict-free nature of the stones. However, most likely the supplier does not actually have these diamonds and the documentation is false as there will normally not yet be a KPC available at this stage. Usually the supposed supplier/exporter is a new counterparty not yet known to the diamond trader who approaches him with this offer of rough diamonds. The KPC presented is either a copy of a real (earlier issued) KPC of a frauded KPC. For possible indications of a false KPC, see question 14.

It is recommended that banks stress the importance of conducting a KYS ('Know Your Supplier') to their clients, for cases where there is potential trade with a high-risk supplier. The bank can include this in its clients policy, explaining what it considers as high-risk suppliers, and requiring, for example, that its clients should provide the KYS details of their suppliers to the bank upon first request.

17.

Is it possible that there is a difference between the value mentioned on a KPC and the value mentioned on a (pro forma) invoice?

It is indeed possible that there is a difference in the value mentioned on the KPC and the value mentioned on the invoice or the pro forma invoice. Different scenarios are possible, which are described below.

THERE IS A SALE

If there is a fixed deal between the supplier and the client relating to the goods to be sold and the price to be paid, an invoice is drawn up. When the rough diamond shipment is shipped to Belgium, this invoice is presented at Diamond Office to import the goods. Usually, the value mentioned on the invoice and the value mentioned on the KPC will be the same. However, it is possible that the value mentioned on both documents is different. Likely explanations are the following:

- The company has a different, amended invoice in its bookkeeping than the invoice that has been presented to Diamond Office. The company should in this case be able to explain such a difference and contact the Belgian KP authority to report the difference in value and possibly recitfy KP certificate.;

- The company has received an additional invoice for costs charged, which invoice has not been presented to Diamond Office;

- Costs have been charged to the importer which are not included on the KPC but which are included on the invoice (e.g. one invoice is made for the client for rough diamonds, including for certain provided services based on, for example, a service level agreement between the supplier and the client). In this case, there should be additional documentation (contractual agreements) explaining what those services for which costs are charged relate to. This sometimes occurs for goods from Russia or the Democratic Republic of Congo (DRC). It usually concerns a rather small difference.

- The exporting KP authority has put a different value on the KPC than the value mentioned on the invoice. This occurs sometimes for goods coming from the DRC. In the DRC, the difference has to do with the fact that the supplier already needs to present a final invoice to the Congolese KP authority for them to issue a KPC (instead of a pro forma invoice). However, the Congolese KP authority has the task to scrutinize the diamonds to be exported and assess the actual value of the goods.

17.

Is it possible that there is a difference between the value mentioned on a KPC and the value mentioned on a (pro forma) invoice?

If the actual value of the goods according to the KP authority differs from the value mentioned on the invoice, this will lead to a Congolese KPC with a different value than the value mentioned on the invoice. As it is specifically excluded in the Mining Code of the DRC to present a pro forma invoice for export, the invoice already had to be final when applying for a Congolese KPC for export and the invoice cannot be amended anymore. Any difference in value could thus not be changed anymore on the invoice. Possibly, a separate extra invoice could be issued by the supplier in which any discrepancy is rectified. However, this is usually not done.

THERE IS NO SALE (YET)

In case there is **no fixed deal** yet between the supplier and the client as regards to which goods are to be sold and against which price, a **pro forma invoice or a consignment note** will be drawn up. In principle, the value mentioned on the pro forma invoice/consignment note and the value mentioned on the KPC should be the same. However, when the supplier and the client come to an agreement with regard to which goods to be sold and against which price, a final invoice will be drafted. The value mentioned on this invoice can differ from that mentioned on the KPC.

IN GENERAL

If a bank notices bigger differences in the value mentioned on the KPC and that mentioned on the invoice of its client's transaction and it is unsure about the explanation for this, it can contact AWDC's Compliance/Banking Helpdesk (trst@awdc.be) to assess the particular case based on the information provided.

Note that as explained above in question 14, the value mentioned on the invoice (in case of a sale) or bill of lading / consignment note / pro forma invoice (in case of a consignment) and the value mentioned on the **import declaration**, should in principle always be the same value. Only in very exceptional cases, there could be a difference. Should you encounter such a case and you are unsure how this can be explained, please get in touch with our Compliance/Banking Helpdesk (trst@awdc.be) to assess this situation.

18.

Is it normal that a KPC accompanies the consignment of rough diamonds but not the final invoice?

Yes. It is common practice that rough stones are brought into Belgium on consignment. In this case, the consignment will be accompanied by a consignment note (sometimes this is called a ‘shipping invoice’ but actually this is no real invoice), a transport document and a Kimberley Process Certificate.

If (part of) the goods sent on consignment are subsequently sold, there will not be a Kimberley Process certificate linked to this invoice, as the KPC already came in with the consignment note.

It is best practice for companies to refer to earlier consignments on their invoice (by referring to e.g. the consignment reference number of the goods which had been sent on consignment and are later sold) and in case of rough diamonds, to even refer to the KPC number that accompanied the earlier consignment of those rough diamonds.

It should be well understood that the KPCS requires that every international shipment of rough diamonds is accompanied by a valid and validated KP Certificate. That shipment can be a commercial transaction such as a sale/purchase, a consignment or a parcel of rough diamonds sent to a manufacturer to be transformed into polished diamonds.

19.

How can one know that rough diamonds are conflict-free if they have been saved in a bank or safe and are to be sold only numerous years later?

It is the KP authorities' task to assess whether rough diamonds are indeed KP compliant when they are presented for export/import. Based on conclusive evidence (documentation such as invoices), physical inspection of the diamonds, pictures of the diamonds (foot printing) etc., they make this assessment and verify from which countries these goods originated.

If the KP authority decides that the goods are indeed KP compliant, it will issue a (new) KP Certificate allowing the goods to be officially exported resp. imported to resp. from another KP participant.

The bank can in such a case rely on the assessment and the KP certificate issued by the KP authority as a guarantee that the diamonds are conflict-free.

20.

What if no KPC is available for the transaction or if the rough diamond is polished – is there another type of guarantee which the bank can check to have comfort that the diamonds are no conflict diamonds?

As explained above (see question 8), not for every transaction there will be a Kimberley Process Certificate available, as such certificates are not made for trade within the territory of one KP participant. Also, once rough diamonds are polished and exported/imported further, there will no longer be a Kimberley Process Certificate to accompany the parcel, as this system is solely for rough diamonds.

However, the **'system of warranties'** has been established by the World Diamond Council, building on the Kimberley Process Certification Scheme and elaborating its scope to also polished diamonds and even diamond jewelry. In this system of warranties, diamond traders include a warranty on their invoices formulated in a particular format, warranting that the goods are indeed conflict-free.[8]

The idea is that (rough) goods imported in a KP compliant way are subsequently sold further B2B (as rough diamonds, polished diamonds or as diamonds embedded in jewelry) with this warranty on each invoice. In principle the warranty should be able to be traced back to the rough diamonds imported with KPC throughout the whole supply chain.

Within the Belgian context, the use of this warranty is mandatory for all members of Belgian diamond bourses and of Belgian diamond manufacturers associations, which member organizations have both included the system of warranties in the code of conduct which their members need to comply with. It is optional for non-bourse members.

Within the EU, the use of this warranty also has a legal base in the EU regulation implementing the KPCS in the territory of the EU.[9]

[8]* Warranty mentioned in Code of Conduct of the Federation of Belgian Diamond Bourses and mandatory to be used by bourse members of the Belgian bourses: "The diamonds herein invoiced have been purchased from legitimate sources not involved in funding conflict and in compliance with UN resolutions. The seller hereby guarantees that these diamonds are conflict free, based on personal knowledge and/or written guarantees provided by the supplier of these diamonds."

* Updated warranty by WDC (2018): "The diamonds herein invoiced have been {sourced}* purchased from legitimate sources not involved in funding conflict, in compliance with United Nations Resolutions and corresponding national laws {where the invoice is generated}**. The seller hereby guarantees that these diamonds are conflict free and confirms adherence to the WDC SoW Guidelines."

*{sourced} - may be used by companies that do not purchase from open market, but source and aggregate diamonds from production facilities that are owned/partly owned by them

**{where the invoice is generated} - may be used by companies if they specifically want to reference the country of invoice issuance

[9]Foreseen under the EU Kimberley Process regulation No 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds.

Further questions?

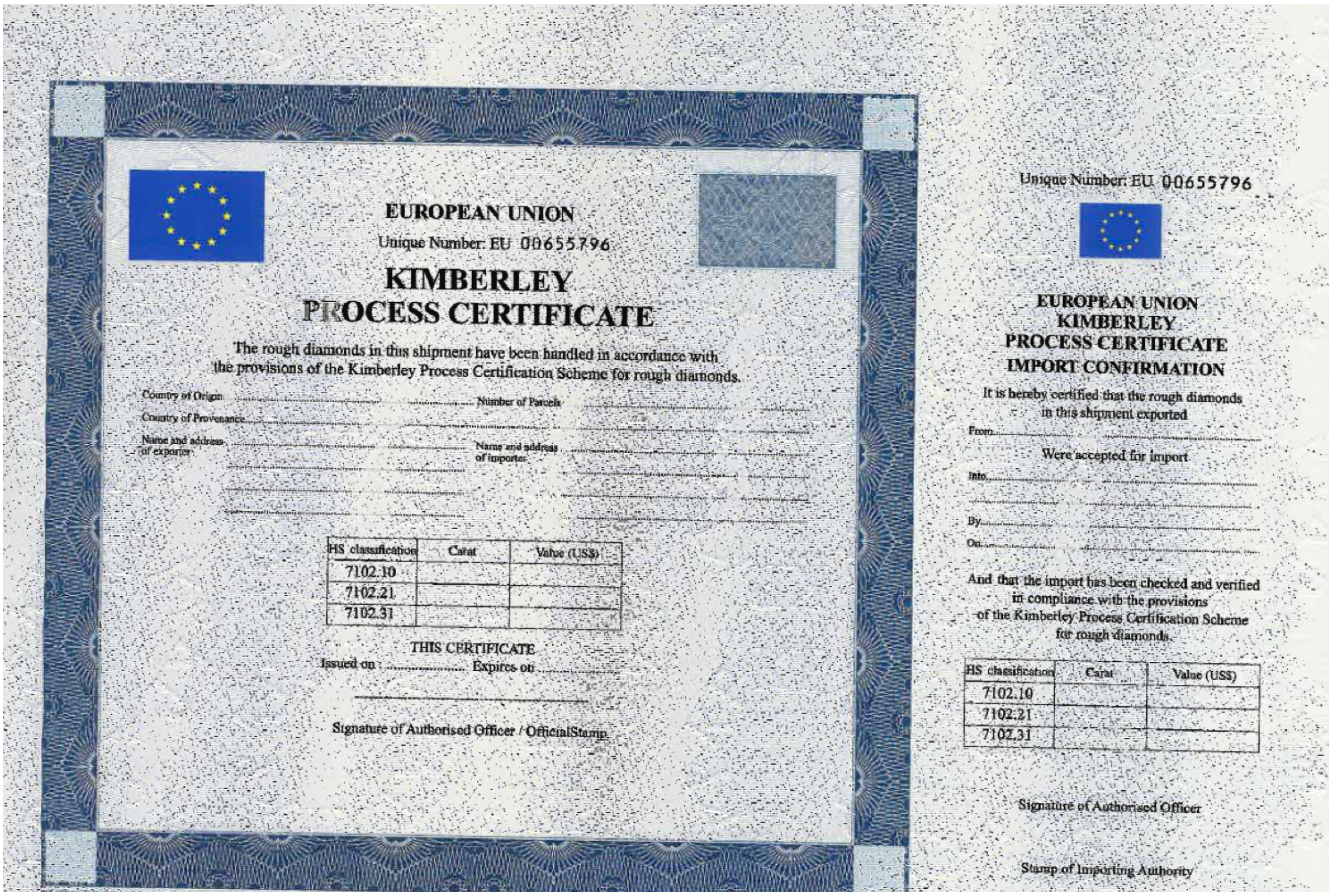
In case you have any additional KP questions which have not been answered above, please get in touch with the **Compliance/Banking Helpdesk**

trst@awdc.be

AWDC
ANTWERP WORLD DIAMOND CENTRE

ANNEX A
Examples of a Kimberley Process certificate

EXAMPLE OF AN EU KIMBERLEY PROCESS CERTIFICATE (DETAILS BLURRED)



EUROPEAN UNION

Unique Number: EU 00655796

KIMBERLEY PROCESS CERTIFICATE

The rough diamonds in this shipment have been handled in accordance with the provisions of the Kimberley Process Certification Scheme for rough diamonds.

Country of Origin .... Number of Parcels ....

Country of Provenance ....

Name and address of exporter .... Name and address of importer ....

HS classification	Carat	Value (US$)
7102.10		
7102.21		
7102.31		

THIS CERTIFICATE

Issued on : .... Expires on ....

Signature of Authorised Officer / OfficialStamp

Unique Number: EU 00655796

EUROPEAN UNION
KIMBERLEY
PROCESS CERTIFICATE
IMPORT CONFIRMATION

It is hereby certified that the rough diamonds in this shipment exported

From............

Were accepted for import

Into............

By............

On............

And that the import has been checked and verified in compliance with the provisions of the Kimberley Process Certification Scheme for rough diamonds.

HS classification	Carat	Value (US$)
7102.10		
7102.21		
7102.31		

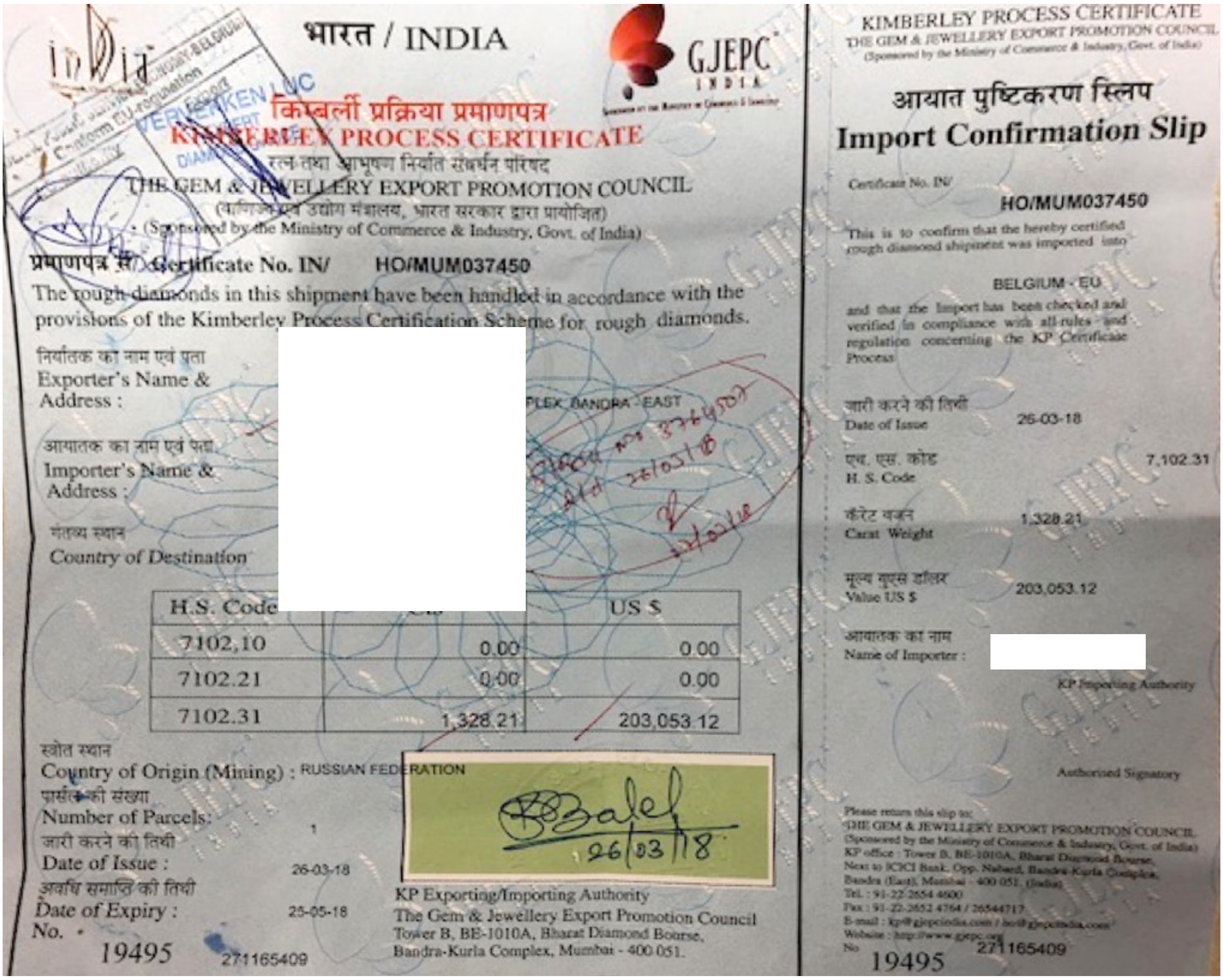
Signature of Authorised Officer

Stamp of Importing Authority

ANNEX A
Examples of a Kimberley Process certificate

EXAMPLE OF AN INDIAN KIMBERLEY PROCESS CERTIFICATE (DETAILS BLURRED)

On this certificate, the stamp of the FPS Economy operating in Diamond Office, in its authority as importing EU Kimberley Process authority, has been added (top left corner). Upon import into Belgium, a copy is taken of this stamped KPC and provided to the importer.


भारत / INDIA

GJEPC INDIA

किम्बर्ली प्रक्रिया प्रमाणपत्र

KIMBERLEY PROCESS CERTIFICATE

रत्न तथा आभूषण निर्यात संवर्धन परिषद

THE GEM & JEWELLERY EXPORT PROMOTION COUNCIL

(वाणिज्य एवं उद्योग मंत्रालय, भारत सरकार द्वारा प्रायोजित)

(Sponsored by the Ministry of Commerce & Industry, Govt. of India)

प्रमाणपत्र सं. / Certificate No. IN/ HO/MUM037450

The rough diamonds in this shipment have been handled in accordance with the provisions of the Kimberley Process Certification Scheme for rough diamonds.

निर्यातक का नाम एवं पता
Exporter's Name & Address : ... PLEX BANDRA EAST

आयातक का नाम एवं पता
Importer's Name & Address :

गंतव्य स्थान
Country of Destination

H.S. Code	Ct.	US $
7102.10	0.00	0.00
7102.21	0.00	0.00
7102.31	1,328.21	203,053.12

स्रोत स्थान
Country of Origin (Mining) : RUSSIAN FEDERATION

पार्सल की संख्या
Number of Parcels: 1

जारी करने की तिथि
Date of Issue : 26-03-18

अवधि समाप्ति की तिथि
Date of Expiry : 25-05-18

No. 19495 271165409

KP Exporting/Importing Authority
The Gem & Jewellery Export Promotion Council
Tower B, BE-1010A, Bharat Diamond Bourse,
Bandra-Kurla Complex, Mumbai - 400 051.

KIMBERLEY PROCESS CERTIFICATE
THE GEM & JEWELLERY EXPORT PROMOTION COUNCIL
(Sponsored by the Ministry of Commerce & Industry, Govt. of India)

आयात पुष्टिकरण स्लिप
Import Confirmation Slip

Certificate No. IN/ HO/MUM037450

This is to confirm that the hereby certified rough diamond shipment was imported into BELGIUM - EU

and that the Import has been checked and verified in compliance with all rules and regulation concerning the KP Certificate Process

जारी करने की तिथि
Date of Issue 26-03-18

एच. एस. कोड
H. S. Code 7,102.31

कैरेट वजन
Carat Weight 1,328.21

मूल्य यूएस डॉलर
Value US $ 203,053.12

आयातक का नाम
Name of Importer :

KP Importing Authority

Authorised Signatory

Please return this slip to:
THE GEM & JEWELLERY EXPORT PROMOTION COUNCIL
(Sponsored by the Ministry of Commerce & Industry, Govt. of India)
KP office : Tower B, BE-1010A, Bharat Diamond Bourse,
Next to ICICI Bank, Opp. Nabard, Bandra-Kurla Complex,
Bandra (East), Mumbai - 400 051. (India)
Tel. : 91-22-2654 4600
Fax : 91-22-2652 4764 / 26544717
E-mail : kp@gjepcindia.com / ho@gjepcindia.com
Website : http://www.gjepc.org

No 19495 271165409

ANNEX B
Letter FPS Economy

LETTER FPS ECONOMY EXPLAINING EU IMPORT/EXPORT PROCEDURES FOR ROUGH DIAMONDS / EU KP REGULATION (1/2)

economie
FOD Economie, K.M.O., Middenstand en Energie

2000 Antwerp, 5 september 2018

To whom it may concern

Betreft : EU import and export procedures for rough diamonds - EU KP regulation

The European Union, currently comprised of 28 Member States, is a single market and an economic and customs union. For most international trade matters, including for the purposes of the Kimberley Process Certification Scheme (KPCS), the European Union is considered as one entity without internal borders.

Our Reference
E4/2018/KPCS/2600

One set of rules applies for the twenty-eight customs administrations of the Member States for import or export transactions at the external borders of the single market.

The EU as a whole is a single Participant in the KPCS, and Council Regulation (EC) 2368/2002 of 20 december 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds applies common rules in all Member States.

This regulation stipulates that every import and export of rough diamonds must be accompanied by a valid KP certificate and must first be verified by a Union authority. The Union authority in Belgium is the Directorate-General for Economic Analyses and Global Economy, International Department - Licence service (Diamond). They will check the validity of the KP certificate at import and issue the KP certificate at export and will inspect the content of the shipments. After this inspection, the operator will receive an authenticated copy of the original KP certificate;

FEDERAL PUBLIC SERVICE ECONOMY
EU-authority
BELGIUM

Directorat-General for Economic Analyses and Global Economy
International Department – Licence Service (Diamond)

Italiëlei124 bus 71
2000 Antwerpen

+32 (02)277 54 59
+32 (02)277 54 61

http://economie.fgov.be

.be

ANNEX B
Letter FPS Economy

LETTER FPS ECONOMY EXPLAINING EU IMPORT/EXPORT PROCEDURES FOR ROUGH DIAMONDS / EU KP REGULATION (2/2)

economie
FOD Economie, K.M.O., Middenstand en Energie

Transactions of or trade in rough diamonds within the internal borders of the European Union fall out of the scope of the above mentioned procedure and regulation and therefore no KP certificate is requested and thus will not be provided by the Union Authority.

Further information about the procedure can be found on the website of the European Union (http://eur-lex.europa.eu/) or on the website of the Federal Public Service Economy (https://economie.fgov.be/en).

FEDERAL PUBLIC SERVICE ECONOMY
EU-authority
- BELGIUM -

Directorat-General for Economic Analyses and Global Economy
International Department – Licence Service (Diamond)

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ANNEX C
Letter of comfort

LETTER OF COMFORT: DEFINITION, WHEN TO USE THEM AND PROCEDURES TO FOLLOW

The present guidance document aims to provide background information on Letters of Comfort: what they are, when to issue them and the procedures to follow when doing so. It furthers information provided in Best Practice 1 of the Working Group of Diamond Experts (WGDE) Technical Guidelines and Best Practices.

WHEN TO ISSUE:

For now, the WGDE has identified two main uses for Letters of Comfort (LoC):

A) Exploration samples (bulk/rock samples, heavy mineral concentrate (sediment) samples, drill core samples, etc) that may or may not contain rough diamonds are not covered under the Kimberley Process (KP) Certification Scheme. Diamonds extracted from these samples may need to be sent back to where they originated or to another KP Participant. However, the presence of these rough diamonds on the territory cannot be explained (no import KP certificate can be provided and they were not mined in that country).

B) Shipments that may be interpreted as requiring a KP certificate.

DEFINITION IN THE CASE OF A:

A LoC is a document that serves to initiate a chain of custody for the export of potentially diamondiferous samples, so that if rough diamonds are recovered during processing or testing, the recovered diamonds may be repatriated to where they originated (country of mining origin) or may be exported to another KP Participant. In such cases, the LoC essentially provides the exporting authority, in the country the rough diamonds were extracted from the exploration samples, with an understanding of how the rough diamonds arrived in the country, since they were not imported (no import KP certificate can be supplied) nor mined in the country. LoC are issued by the KP exporting authority from where the exploration sample is being shipped and is addressed to the Focal Point of the KP Participant where the shipment is sent, which is normally where the sample will be processed and where rough diamonds may be recovered. The LoC is made up of a letter, under the signature of the KP exporting authority, explaining the details of the shipment to which is attached a chain of custody document provided by the exploration sample exporter. The process of issuing a LoC must be initiated by the owner of the exploration sample.

Information to be included in the chain of custody document provided to the Exporting Authority by the exporter:

- exporter contact information
- type of samples collected
- date or period in the year the samples were collected
- location (mine, exploration locality) where samples were collected
- who collected the samples (contractors, company employees, etc)
- **name and address of the processing facility where samples will be sent for processing**
- chain of custody of samples from collection to export, including storage and
- transport (this includes authorizations from mine managers to remove the material from the exploration/mine site)
- number of containers in the shipment
- seal (or control) numbers on containers, as well as consignment numbers, throughout the chain of custody
- commercial value of the shipment
- customs value of the shipment
- gross weight of the shipment
- importer contact information
- declaration that the samples may contain an unknown quantity of rough diamonds
- and that these would be “conflict free”

Note that several of these may be itemized and included on a Pro-Forma Invoice. For example, for each drill core sample, the Pro-Forma Invoice can specify the drill-hole number, the weight of the sample, the seal number and the consignment number.

ANNEX C
Letter of comfort

PROCEDURES TO FOLLOW:

- As a preliminary step, the KP exporting authority should contact the KP importing authority to provide advance notification of the shipment and to verify that the authority is comfortable with the procedure. During this step, the contact details of the official that should receive the LoC can be verified.
- Upon reception of a request for the issuance of a LoC, which includes a valid chain of custody (example in attachment), the KP exporting authority issues a LoC (example in attachment) addressed to the Focal Point of the KP Participant where the exploration sample is shipped. (Note that if the exploration sample is sent to a non-KP Participant, it will be impossible to repatriate whatever rough diamonds are extracted from it.)
- The exploration sample owner requesting the LoC must be copied (c.c.) on the latter and must include a copy of the LoC in the documentation accompanying the shipment.
- Note that after testing is completed, if part of the bulk sample is returned to the "mining origin" Participant it will not require a LoC because any rough diamonds eventually extracted from this sample can be substantiated. However, it will require a LoC if the sample is exported to a third party Participant.

Note: A site visit may be warranted to the exploration company exporting the shipment or to the laboratory conducting the analysis in the importing Participant in cases where they are not well known by the KP exporting authority.

DEFINITION IN THE CASE OF B:

In the case of shipments that may be interpreted by Customs officials as requiring a KP certificate, a LoC can serve to communicate to them (on export or on import) the opinion of the KP Focal Point of the Participant exporting a shipment that is not accompanied by a KP certificate, such as rough diamond jewellery. This approach may provide guidance and avoid the shipment being detained or seized by Customs.

A LoC is issued by the KP export Focal Point and is addressed to the Focal Point of the KP Participant where the shipment is sent. The LoC is made up of a letter, under the signature of the KP exporting authority, explaining the details of the shipment and the rationale why the shipment does not require a KP certificate.

PROCEDURES TO FOLLOW:

- As a preliminary step, the KP exporting authority should contact the KP importing authority to provide advance notification of the shipment and to verify that the authority is comfortable with the procedure. During this step, the contact details of the official that should receive the LoC can be verified.
- Upon reception of a request for the issuance of a LoC the KP exporting authority issues a LoC (example in attachment) addressed to the Focal Point of the KP Participant where the shipment is sent.
- The owner of the shipment requesting the LoC must be copied (c.c.) on the latter and must include a copy of the LoC in the documentation accompanying the shipment.