

20 NOVEMBER 2019. – Royal Decree on measures pertaining to the supervision of the diamond industry

[Unofficial English translation]

FILIP, King of the Belgians,

To all who are now and who will be, Our Greeting.

Having regard to Regulation (EC) no. 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds;

Having regard to Regulation (EU) no. 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code;

Having regard to Regulation (EU) no. 679/2016 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

Having regard to the Constitution, article 108;

Having regard to the Program Act of 2 August 2002, article 169, §§ 1 and 2;

Having regard to the royal decree of 30 April 2004 on measures pertaining to the supervision of the diamond industry;

Having regard to the advice of the Inspector of Finance, given on 6 July 2018;

Having regard to the communication to the European Commission, on 30 July 2018, with application of article 5, para 1, of directive 2015/1535/EU of the European Parliament and the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services;

Having regard to the regulatory impact assessment performed on 21 December 2018 in accordance with articles 6 and 7 of the law of 15 December 2013 pertaining diverse provisions on administrative simplification;

Having regard to advice 64.906/1 of the Council of State, given on 7 January 2019 with application of article 84, §1, first para, 2°, of the laws on the Council of State coordinated on 12 January 1973;

Considering the advice of the Data Protection Authority of 5 June 2019;

On the proposal of the Minister of Finance and the Minister of Economy, and on the advice of the Ministers meeting in the Council,

We have decided and We decide:

Article 1. For the application of this decree the following definitions shall apply:

1° Regulation no. 2368/2002: Regulation (EC) no. 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds;

2° Regulation no. 952/2013: Regulation (EU) no. 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code;

3° program act: the program act of 2 August 2002;

4° law of 18 September 2017: the law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash;

5° royal decree of 7 October 2013: the royal decree of 7 October 2013 approving the regulations adopted in implementation of the Act of 11 January 1993 to prevent the use of the financial system for money laundering and the financing of terrorism for diamond traders registered in application of Article 169, §3 of the Program Act of 2 August 2002;

6° diamond: a mineral consisting essentially of carbon crystallized within the isometric (cubic) crystal system with a hardness of 10 on the Mohs hardness scale, with a specific gravity of approximately 3.52 and a refractive index of approximately 2.42 formed by nature. This includes unset and polished diamonds, rough diamonds, industrial diamonds, boart, diamond powder, provided they are not intended solely for personal use;

7° synthetic diamond: an artificial product that has essentially the same chemical composition, crystal structure and physical (including optical) characteristics as a diamond;

8° diamond industry: the sector comprising all traders in diamonds and/or synthetic diamonds, provided that they are not intended solely for personal use;

9° trader in diamonds and/or synthetic diamonds: the various operators established in the territory of the Kingdom of Belgium engaged in commercial activities relating to diamonds and/or synthetic diamonds, both as a principal and a secondary activity, including, inter alia, brokers and manufacturers using diamonds and/or synthetic diamonds in the manufacture of equipment, with the exception of operators whose sole activity is to insure and/or finance the diamond trade;

10° transactions of diamonds and/or synthetic diamonds: every transaction a trader in diamonds and/or synthetic diamonds carries out in the context of his professional activities;

11° ultimate beneficiary(ies): the natural person(s) who is (are) the ultimate owner or has (have) the ultimate say over the trader in diamonds and/or synthetic diamonds, and/or the natural person(s) for whose account the trader in diamonds and/or synthetic diamonds acts, as described in article 3, 27° of the law of 18 September 2017;

12° Union goods: goods as defined in article 5, 23° of Regulation no. 952/2013;

13° non-Union goods: goods as defined in article 5, 24° of Regulation no. 952/2013;

14° supervision of the diamond industry: all instruments, measures and procedures which can help to combat money laundering, financing of terrorism, fraud and other abuses in the diamond sector, even preventively, in the context of article 169, §1 of the program act;

15° accredited experts: experts and sworn experts of the Private Foundation AWDC, appointed by the Service of the FPS Economy, in accordance with article 13;

16° qualification: classification and description of diamonds and synthetic diamonds in the HS codes 7102 1000, 7102 2100, 7102 2900, 7102 3100, 7102 3900, 7104 2000, 7104 9000 and 7105 1000;

17° weight: mass expressed in carat, or in case of the subdivisions 7104 and 7105, in gram;

18° value: the transaction value or, in case this cannot be determined, the value of the goods as stipulated in the agreement on the application of article VII of the General Agreement on Tariffs and Trade (GATT) 1994 and in article 70 to 74 of Regulation no. 952/2013;

19° Service of the FPS Economy: the service of the Federal Public Service Economy, SMEs, Middle Classes and Energy charged with the supervision of the diamond sector as defined in article 169, §1 of the program act;

20° Customs: the General Administration of Customs and Duties of the Federal Public Service Finance;

21° Private Foundation AWDC: the Private Foundation Antwerp World Diamond Centre, with registered seat at Hoveniersstraat 22, 2018 Antwerp;

22° Diamond Office: cooperation between the Private Foundation AWDC, the FPS Economy, SMEs, Middle Classes and Energy and the FPS Finance – General Administration of Customs and Duties, in the premises of the Private Foundation AWDC;

23° working days: every day with exception of Saturdays, Sundays and public holidays;

24° the customs declaration: the act whereby a person indicates, in the prescribed form and manner, his intention to place goods under a particular customs procedure, specifying, where appropriate, any specific procedures to be applied;

25° the declaration: declaration at the Service of the FPS Economy.

Art. 2. § 1. Every trader in diamonds and/or synthetic diamonds established on the territory of the Kingdom of Belgium who carries out transactions in diamonds and/or synthetic diamonds and/or who stocks diamonds and/or synthetic diamonds in the context of this royal decree, is to first register with the Service of the FPS Economy.

When registering, the trader in diamonds and/or synthetic diamonds provides the following pieces to the Service of the FPS Economy:

1° for the registration of an independent-natural person in the capacity of trader in diamonds and/or synthetic diamonds:

- a) an indication of the National register number;
- b) an indication of the enterprise number granted by the Crossroads Bank for Enterprises;
- c) an extract of the criminal records of the applicant or an equivalent document issued by a competent foreign authority, which is maximum three months old at the moment of the application; this can also be requested by the Service of the FPS Economy at a later moment upon request;
- d) an overview of previous professional activities and proof that the applicant has professional experience in the diamond sector, as defined and stipulated by the Service of the FPS Economy;
- e) a participation certificate on the name of the applicant of an anti-money laundering seminar recognized by the Service of the FPS Economy where the obligations of traders in diamonds and/or synthetic diamonds are explained in accordance with the royal decree of 7 October 2013;

2° for the registration of a legal entity in the capacity of trader in diamonds and/or synthetic diamonds, both as per Belgian law and as per foreign law:

- a) an indication of the National register number of all managers and/or directors;
- b) a depiction of the shareholding structure of the legal entity as well as the names of the ultimate beneficiaries of the legal entity;
- c) an indication of the enterprise number granted by the Crossroads Bank for Enterprises;
- d) either an extract of the act of incorporation from the Belgian Official Gazette or a copy of this act, in case of a Belgian establishment, or an extract of the decision of incorporation and the bylaws of the foreign legal entity from the Belgian Official Gazette or a copy of these acts, in case of a Belgian branch office;
- e) an extract of the criminal records of the applicant or an equivalent document of every director, permanent representative of the legal entity-director, managing director and every special representative of the legal entity as well as an extract of the criminal records of the legal entity, maximum three months old at the moment of the application; this can also be requested by the Service of the FPS Economy at a later moment upon request;
- f) an overview of previous professional activities of at least one natural person who permanently and effectively manages the activities of the company and proof that this person has professional experience in the diamond sector, as defined and stipulated by the Service of the FPS Economy;
- g) a participation certificate of an anti-money laundering seminar recognized by the Service of the FPS Economy where the obligations of traders in diamonds and/or synthetic diamonds are explained in accordance with the royal decree of 7 October 2013, on the name of at least one natural person who permanently and effectively manages the activities of the company;

h) in case a legal entity executes the mandate of director, managing director or member of the direction committee in another legal entity, the permanent representative presents his identity document or provides an indication of his National register number and proof of his nomination as permanent representative;

i) if no managing director of a Belgian legal entity has permanent residence in the Kingdom of Belgium, he gives a power of attorney to an authorized person residing in the Kingdom of Belgium who represents the managing directors. In this case, the latter presents his identity document or provides his National register number and proof of power of attorney, signed by both parties.

§ 2. Every change to the documents referred to in paragraph 1 will be notified to the Service of the FPS Economy without delay and at the latest within a period of three months after the change.

Every three years, the trader in diamonds and/or synthetic diamonds provides new versions of the documents referred to in paragraph 1, second section, 1° and 2° to the Service of the FPS Economy.

§ 3. Every trader in diamonds and/or synthetic diamonds who is established on the territory of the European Union and who wishes to bring diamonds and/or synthetic diamonds into the free circulation or export them from the European Union via the Kingdom of Belgium, also provides proof that he has fulfilled all formalities laid down by the EU member state which he is subject to, to carry out the profession of trader in diamonds and/or synthetic diamonds, so that the Service of the FPS Economy can carry out inspections in accordance with Regulation no. 2368/2002.

§ 4. The trader in diamonds and/or synthetic diamonds can be exempted from providing one or multiple documents as described in paragraphs 1 and 2 of the Service of the FPS Economy already has the relevant document(s) in its possession.

§ 5. If the Service of the FPS Economy issues a registration, the registered trader in diamonds and/or synthetic diamonds receives a written confirmation of his registration and of his registration number from the Service of the FPS Economy.

§ 6. The registered trader in diamonds and/or synthetic diamonds notifies the Service of the FPS Economy of the organization of which he is member, if any, and which is responsible for the system of warranties and self-regulation for the sector and is recognized as such in accordance with article 17 of Regulation no. 2368/2002. Changes to the membership of an organization are also notified to the Service of the FPS Economy.

§ 7. The Service of the FPS Economy will after registration exercise continuous vigilance, in particular with a view to the application of articles 3 and 4.

§ 8. The registration can be refused in one of the following cases:

1° (a) document(s) referred to in paragraph 1 is (are) not provided;

2° the independent trader in diamonds and/or synthetic diamonds referred to in paragraph 1, second section, 1°, the legal entity-trader in diamonds and/or synthetic diamonds referred to in paragraph 1, second section, 2° or the managing director(s), director(s), ultimate beneficiary(ies) of this legal entity, both domestically and/or abroad, have a criminal conviction that relates to the professional activities of the trader in diamonds and/or synthetic diamonds;

3° there is another reason which seriously compromises the reliability of the trader in diamonds and/or synthetic diamonds.

With a view to whether or not to refuse the registration, the Service of the FPS Economy can always ask for additional clarification with regard to the documents provided.

In case the Service of the FPS Economy decides to refuse the registration, it makes a reasoned decision identifying the facts established and the ground(s) for refusal.

The trader in diamonds and/or synthetic diamonds concerned is informed of the decision of refusal per registered mail with acknowledgement of receipt.

If a registration is refused, the trader in diamonds and/or synthetic diamonds concerned can only submit a new application for registration after six months from the date of the refusal decision.

Art. 3. § 1. The registration can be suspended by the minister of Economy in one of the following cases:

1° one of the requirements defined in article 2, § 1 is no(t) (longer) fulfilled;

2° there is a criminal conviction of the independent trader in diamonds and/or synthetic diamonds referred to in article 2, § 1, second section;

3° there are reasonable grounds for suspecting that criminal offences are or have been committed by the independent trader in diamonds and/or synthetic diamonds referred to in article 2, § 1, second section, or that criminal offences are or have been attempted to commit, in his capacity as, or related to his activity as independent trader in diamonds and/or synthetic diamonds referred to in article 2, § 1, second section.

§ 2. With a view to whether or not to suspend the registration, the Service of the FPS Economy can always ask for additional information with regard to the provisions referred to in paragraph 1.

§ 3. In case the Service of the FPS Economy decides to suspend the registration, it informs the trader in diamonds and/or synthetic diamonds concerned of the fact that suspension is considered per registered mail with acknowledgement of receipt. This registered mail contains the following elements:

1° the facts established;

2° the possibility to request to see his file;

3° the right to be assisted by a counsel of his choice;

4° the right to communicate his defenses within a period of thirty working days from receipt of the registered mail referred to in this section, per registered mail addressed to the Service of the FPS Economy;

5° within the same period and in the same manner, the right to request to be heard by the Service of the FPS Economy, if desired assisted by a counsel of his choice;

§ 4. The Service of the FPS Economy draws up a reasoned opinion, where applicable after consideration of the defenses and hearing the concerned and/or his counsel, for the minister of Economy.

§ 5. The decision of suspension contains, in particular, the following elements:

1° the legal ground of the decision;

2° the description of the facts;

3° the considerations which are factually and legally at the basis of the decision, on the one hand as response to the defenses submitted and on the other hand as motivation for the suspension of the registration;

4° the start date and the duration of the suspension and the circumstances taken into account to decide the scope of this period.

This decision is taken within sixty days after receipt of the registered mail of the Service of the FPS Economy by the trader in diamonds and/or synthetic diamonds concerned in which the possibility of suspension is communicated.

§ 6. The trader in diamonds and/or synthetic diamonds concerned is informed of the decision of suspension per registered mail with confirmation of receipt.

During the period of suspension of the registration, the trader in diamonds and/or synthetic diamonds concerned cannot carry out any transaction of diamonds and/or synthetic diamonds anymore within the meaning of this royal decree.

§ 7. A suspension has a maximum duration of six months, which can be extended once for a maximum of six months. In case of an extension, the minister of Economy takes a new decision in accordance with paragraph 5, on the reasoned opinion of the Service of the FPS Economy, whereby the latter first informs the person concerned and gives him the opportunity to communicate his defenses and to be heard in accordance with paragraph 3.

This decision is taken before expiry of the first suspension period.

The trader in diamonds and/or synthetic diamonds concerned is informed of this decision of extension of the suspension per registered mail with confirmation of receipt.

§ 8. A decision of suspension may be followed by a decision of withdrawal of the registration in accordance with article 4.

Art. 4. § 1. The registration can be withdrawn by the minister of Economy in one of the following cases:

1° one of the requirements defined in article 2, § 1 is no(t) (longer) fulfilled;

2° the independent trader in diamonds and/or synthetic diamonds referred to in article 2, § 1, second section, 1°, the legal entity-trader in diamonds and/or synthetic diamonds referred to in article 2, § 1, second section, 2° or the managing director(s), director(s), ultimate beneficiary(ies) of this legal entity, both domestically and/or abroad, have had a criminal conviction that relates to the professional activities of the trader in diamonds and/or synthetic diamonds;

3° there is another reason which seriously compromises the reliability of the trader in diamonds and/or synthetic diamonds.

§ 2. With a view to whether or not to withdraw the registration, the Service of the FPS Economy can always ask for additional information with regard to the provisions referred to in paragraph 1.

§ 3. In case the Service of the FPS Economy is of the opinion the registration should be withdrawn, it informs the trader in diamonds and/or synthetic diamonds concerned of the fact that withdrawal is considered per registered mail with acknowledgement of receipt. This registered mail contains the following elements:

1° the facts established;

2° the possibility to request to see his file;

3° the right to be assisted by a counsel of his choice;

4° the right to communicate his defenses within a period of thirty working days from receipt of the registered mail referred to in this section, per registered mail addressed to the Service of the FPS Economy;

5° within the same period and in the same manner, the right to request to be heard by the Service of the FPS Economy, if desired assisted by a counsel of his choice;

§ 4. The Service of the FPS Economy draws up a reasoned opinion, where applicable after consideration of the defenses and hearing the concerned and/or his counsel, for the minister of Economy.

§ 5. The decision of withdrawal contains, in particular, the following elements:

1° the legal ground of the decision;

2° the description of the facts;

3° the considerations which are factually and legally at the basis of the decision, on the one hand as

response to the defenses submitted and on the other hand as motivation for the withdrawal of the registration;

4° the date on which the withdrawal takes effect.

This decision is taken within sixty days after receipt of the registered mail of the Service of the FPS Economy by the trader in diamonds and/or synthetic diamonds concerned in which the possibility of withdrawal is communicated.

§ 6. The trader in diamonds and/or synthetic diamonds concerned is informed of the decision of withdrawal per registered mail with confirmation of receipt.

From the date of withdrawal of the registration, the trader in diamonds and/or synthetic diamonds cannot carry out any transaction of diamonds and/or synthetic diamonds anymore within the meaning of this royal decree.

§ 7. If a registration is withdrawn, the trader in diamonds and/or synthetic diamonds concerned can only submit a new application for registration after six months from the date of the withdrawal decision in accordance with article 2.

Art. 5. § 1. Every trader in diamonds and/or synthetic diamonds describes the involved good in a clear and unambiguous manner.

Any misleading or deceptive statement, representation or illustration relating to the origin, composition, production or condition of the diamond or the synthetic diamond is forbidden.

§ 2. In case of a synthetic diamond, the trader in diamonds and/or synthetic diamonds describes this by using the terms "synthetic", "laboratory grown" or "laboratory created" diamond. Other descriptions or abbreviations are forbidden.

The term "diamond" without further specification always refers to a diamond of natural origin.

Art. 6. § 1. With a view to ensuring and strengthening the supervision of the diamond industry, every trader in diamonds and/or synthetic diamonds, when bringing non-Union goods into the free circulation and when exporting Union goods, declares to the Service of the FPS Economy the weight, value, qualification and documented origin or provenance of the diamond(s) and/or synthetic diamond(s) released for free circulation or for export.

This declaration contains the data allowing the verification referred to in article 7 to be carried out.

The trader in diamonds and/or synthetic diamonds also declares the nature of the transaction.

§ 2. This declaration is done in the premises of Diamond Office.

§ 3. In case of transactions of diamonds and/or synthetic diamonds with countries outside of the European Union, the customs declaration, when it occurs in the Kingdom of Belgium, is done in the customs office in Diamond Office.

When bringing non-Union goods into the free circulation in case of rough diamonds, the Service of the FPS Economy is in charge of the control referred to in article 4 of the Regulation no. 2368/2002 for the purpose of the customs declaration.

When bringing non-Union goods into the free circulation, the customs declaration is done prior to the declaration to the Service of the FPS Economy. When exporting Union goods, the customs declaration is done after declaration to the Service of the FPS Economy.

§ 4. In case of transactions of diamonds and/or synthetic diamonds with member states of the European Union, every trader in diamonds and/or synthetic diamonds can do a declaration to the Service of the FPS Economy in accordance with paragraphs 1 and 2.

Art. 7. § 1. When a declaration is done, the Service of the FPS Economy conducts a verification of the diamonds and/or synthetic diamonds declared and of the documents supporting the declaration. The Service of the FPS Economy is assisted in this task by accredited experts as referred to in article 13, who carry out their task under the instruction and supervision of the Service of the FPS Economy. In particular, the accredited experts follow the verbal and written working instructions of the Service of the FPS Economy.

The accredited experts may also be put at the service of the Customs officers by the FPS Economy to carry out tasks falling within their area of competence.

§ 2. Every shipment is checked for the presence of diamond(s) and/or synthetic diamond(s).

The declared diamonds and/or synthetic diamonds are checked in a targeted manner per shipment. In case the declared diamonds and/or synthetic diamonds are packed in several parcels, a targeted check is done per parcel. If a shipment or a parcel consists of several lots, it is verified whether all lots are present in the shipment or the package. The Service of the FPS Economy applies a risk-based approach for this purpose.

The Service of the FPS Economy is responsible for allocating the shipments to accredited experts. The allocation is made randomly.

§ 3. The accredited experts carry out a physical inspection of the diamonds and/or synthetic diamonds and check the value, weight and qualification, based on the commercial documents presented to support the declaration, and if applicable, the documented origin or provenance of the imported or exported diamonds in accordance with article 3 of Regulation no. 2368/2002. In doing so, they apply a risk-based approach as indicated by the Service of the FPS Economy.

The accredited experts also inspect the seal when bringing non-Union goods into the free circulation. In case of export, the experts are responsible for the sealing after the physical inspection.

§ 4. After the physical inspection, the declarations validated by the accredited experts are presented to the Service of the FPS Economy.

The Service of the FPS Economy can always give the assignment to carry out one or more new physical inspections or corrections.

§ 5. The physical inspection takes place in the premises of Diamond Office. The premises and material made available by the Private Foundation AWDC allow the Service of the FPS Economy and the accredited experts to carry out their tasks in optimal circumstances in terms of efficiency, expertise, discretion, security, impartiality and independence.

§ 6. Only persons involved in the physical inspection are allowed in the premises of Diamond Office where such inspection is carried out. If the accredited experts provide assistance in the framework of a physical verification of a customs declaration, the officers of the General Administration of Customs and Tariffs are persons involved.

Anyone present in the premises of Diamond Office complies with the internal regulations promulgated and in force there.

§ 7. For the execution of their tasks, the accredited experts and the customs representative of the importer or exporter are required to maintain the confidentiality of the individual data contained in the declarations referred to in article 6, §§ 1 and 4, which they receive in the course of their professional activities. Exclusively the Service of the FPS Economy has access to the data which the accredited experts and the customs representative of the importer or exporter receive in the course of their professional activities. Macroeconomic data can exclusively be provided to the Private Foundation AWDC, to other government services and to the National Bank of Belgium.

Art. 8. § 1. If the accredited experts detect irregularities and/or discrepancies in the performance of their tasks as described in article 7, § 3, they draw up a written report on this and notify this immediately to the Service of the FPS Economy.

The written report describes in detail the irregularity/discrepancy found and indicates the aspect(s) to which it relates: value, weight, qualification, and if applicable, the documented origin or provenance in accordance with article 3 Regulation no. 2368/2002.

A detected irregularity and/or discrepancy can lead to a refusal of the declaration or to a correction of the declaration to the Service of the FPS Economy.

§ 2. If the detected irregularities and/or discrepancies affect the customs declaration, this is communicated to the Customs officers, who take appropriate action in accordance with the legislation in force on customs and tariffs.

§ 3. If the accredited experts, with exception of the cases referred to in paragraph 1, make a reservation regarding the value of the diamonds and/or synthetic diamonds, they notify this to the Service of the FPS Economy. The accredited experts indicate in writing what the specific reason is for their reservation.

The Service of the FPS Economy subsequently carries out an investigation, in which the trader in diamonds and/or synthetic diamonds gets the opportunity to substantiate his declaration. Based on these supporting elements and the result of the inspection, the Service of the FPS Economy can lift the reservation.

The Service of the FPS Economy notifies the Customs officers as well as the customs representative of the importer and the exporter of the reservation made, the investigation that was held and the final decision. The Service of the FPS Economy applies a risk-based approach to notify these cases to the Financial Intelligence Unit (FIU).

§ 4. The Service of the FPS Economy can, in the cases referred to in paragraphs 1 and 3, always give the assignment to (an)other expert(s) to carry out one or more new and/or additional physical inspections or corrections.

§ 5. If, other than the cases referred to in paragraphs 1, 2 and 3, other irregularities are detected or learnt of by the Service of the FPS Economy, the Customs officers or the customs representative of the importer or exporter, these are always notified to the Service of the FPS Economy and/or the Customs officers by the detecting or discovering person when the irregularity established relates to (a) aspect(s) which fall(s) under the competence of their respective services.

Art. 9. § 1. Every trader in diamonds and/or synthetic diamonds and who usually, in whatever capacity, has a stock of diamonds and/or synthetic diamonds, makes an annual declaration to the Service of the FPS Economy of the value, weight and qualification of the quantities of diamonds and/or synthetic diamonds which he has in his possession on 31 December and/or which he has entrusted to brokers or employees working on the basis of a manufacturing contract.

Declaration is also done of the initial stocks, purchases in the Kingdom of Belgium, imported diamonds and/or synthetic diamonds into the Kingdom of Belgium, cutting both in the Kingdom of Belgium and abroad, sales in the Kingdom of Belgium and exported diamonds and/or synthetic diamonds out of the Kingdom of Belgium. In case diamonds and/or synthetic diamonds are imported in or exported from the Kingdom of Belgium, declaration is also done of the nature of the transaction.

§ 2. The declaration is mandatory, even when the stock is zero, if the concerned has had occupations related to diamonds and/or synthetic diamonds during the previous year or if he, in whatever capacity, usually had a stock of diamonds and/or synthetic diamonds.

§ 3. For the application of paragraph 1, "value" means the value as indicated in the bookkeeping of the declarant.

Art. 10. Whoever whom:

1° exercises the profession of diamond polisher for his own account;

2° gives diamonds and/or synthetic diamonds to others on the basis of a manufacturing contract;

3° polishes for the account of others on the basis of such agreements, or

4° combines these activities,

declares the total of these cutting activities in Belgium and abroad in the stock declaration referred to in article 9.

Art. 11. § 1. The minister of Economy decides on the model of the form to be used for the stock declaration referred to in articles 9 and 10.

§ 2. The prescribed declaration referred to in articles 9 and 19 is submitted to the Service of the FOS Economy ultimately by the end of March.

If the books are closed on a different date than 31 December, the stock declaration is ultimately submitted at the end of the third month following on the closing date of that financial year.

§ 3. The Service of the FPS Economy can, based on a risk-based approach, check the data provided in the stock declaration. If irregularities are detected in the provided information, the registration can be suspended and/or withdrawn in accordance with articles 3 and 4.

Art. 12. If the trader in diamonds and/or synthetic diamonds fails to submit the annual stock declaration prescribed in articles 9 and 10, the Service of the FPS Economy sends a registered mail in October of the consecutive year with the question whether the activities have been stopped. In case of a decision which is informed of per registered mail with confirmation of receipt, the Service of the FPS Economy deletes the registration of the trader in diamonds and/or synthetic diamonds who:

1° indicates that he has stopped his activities;

2° does not reply within a month time starting from the date when the registered mail referred to in the first section was offered.

The minister of Economy can decide upon further modalities for deletion ex officio.

Art. 13. § 1. Only the experts who are accredited and employed in accordance with this provision can carry out the assignments referred to in article 7.

§ 2. To be able to be accredited as expert, the candidate has to:

1° have passed a qualification examination;

2° present a declaration from which his independence can be concluded. In particular, the declaration stipulates:

a) that the candidate has no link with natural persons and legal entities who are professionally subject to the declaration duty prescribed in article 6 § 1, and/or who fall under the provisions of article 6, § 4, and that he also does not offer his services on a regular basis to such persons;

b) the professional occupations of his parents, husband resp. wife, legal cohabitant(s) and children, if those are diamond-related.

§ 3. In order to be admitted to the qualification examination referred to in paragraph 2, 1°, the candidate provides the following documents:

1° an extract of the criminal records of maximum three months old, from which can be concluded that the candidate has not been convicted to a criminal or correctional capital punishment in the ten years preceding the date of the extract;

2° proof of a wide-ranging and relevant professional experience in the diamond sector of at least five years:

3° a certificate, issued by an ophthalmologist, of maximum three months old from which can be concluded that the candidate has the eyesight to be able to adequately carry out the assignments of accredited experts.

§ 4. The minister of Economy decides upon the organization, announcement, program, components and the process of the qualification examination referred to in paragraph 2, 1°, as well as upon the composition and working method of the examination committee.

§ 5. The minister of Economy, on the advice of the Interministerial Economic Committee, accredits the expert among the graduates of the qualification examination referred to in paragraph 2, 1°.

§ 6. With his accreditation, the expert signs the deontological code as referred to in paragraph 7, third section.

§ 7. The accredited experts carry out their assignments in an independent and impartial manner.

The Private Foundation AWDC is the employer of the accredited experts.

The Service of the FPS Economy, after consultation with the Private Foundation AWDC, drafts a deontological code which the accredited experts are to comply with.

§ 8. The accredited experts are to follow a training program on an annual basis, with the purpose of refresher trainings and specialization.

Every three years an evaluation examination is organized to assess the qualifications of the accredited experts.

The minister of Economy is responsible for the execution of this paragraph and decides in particular on the further rules relating to the training program and the organization, program, components and process of the evaluation examination as well as the composition and working method of the examination committee.

§ 9. The accreditation of experts can be suspended in one of the following cases:

1° not passing the evaluation examination as referred to in paragraph 8, second section;

2° not following the training program as referred to in paragraph 8, first section;

3° not complying with the principles referred to in paragraph 7;

4° not observing the instructions and control of the Service of the FPS Economy in accordance with article 7, § 1, second section.

In case a suspension is considered, the Service of the FPS Economy notifies the accredited expert of this per registered mail with confirmation of receipt. This registered mail contains the following elements:

1° the facts established;

2° the possibility to request to see his file;

3° the right to be assisted by a counsel of his choice;

4° the right to communicate his defenses within a period of twenty working days from receipt of the registered mail referred to in this section, per registered mail addressed to the Service of the FPS Economy;

5° within the same period and in the same manner, the right to request to be heard by the Service of the FPS Economy, if desired assisted by a counsel of his choice;

The Service of the FPS Economy draws up, where applicable after consideration of the defenses and hearing the concerned and/or his counsel, a reasoned opinion for the minister of Economy. The Service of the FPS Economy may herein propose to impose an adjustment trajectory on the accredited exports, whether or not combined with a suspension.

In case the minister of Economy decides to suspend and/or impose an adjustment trajectory, he makes a reasoned decision. This decision contains in particular the following elements:

- 1° the legal ground of the decision;
- 2° the description of the facts;
- 3° the considerations which are factually and legally at the basis of the decision, on the one hand as response to the defenses submitted and on the other hand as motivation for the suspension of the accreditation and/or for imposing the adjustment trajectory;
- 4° the start date of the suspension and/or the content and requirements of the adjustment trajectory.

This decision is taken within forty days after the date on which the accredited expert took note of the registered mail from the FPS Economy in which the possibility of suspension is communicated.

The expert is informed of this decision per registered mail with confirmation of receipt. This decision takes effect as of the date of acknowledgement of this registered mail.

§ 10. The accreditation of experts can be withdrawn in one of the following cases:

- 1° consecutively not passing the evaluation examination as referred to in paragraph 8, second section;
- 2° consecutively not following the training program as referred to in paragraph 8, first section;
- 3° consecutively and/or grossly failing to comply with the principles referred to in paragraph 7;
- 4° consecutively and/or grossly failing to observe the instructions and the control of the Service of the FPS Economy in accordance with article 7, § 1, second section;
- 5° not following or complying with the adjustment trajectory prescribed in paragraph 9, third section;
- 6° a combination of 1° to 5°.

In case a withdrawal is considered, the Service of the FPS Economy notifies the accredited expert of this per registered mail with confirmation of receipt. This registered mail contains the following elements:

- 1° the facts established;
- 2° the possibility to request to see his file;
- 3° the right to be assisted by a counsel of his choice;
- 4° the right to communicate his defenses within a period of twenty working days from receipt of the registered mail referred to in this section, per registered mail addressed to the Service of the FPS Economy;
- 5° within the same period and in the same manner, the right to request to be heard by the Service of the FPS Economy, if desired assisted by a counsel of his choice;

The Service of the FPS Economy draws up, where applicable after consideration of the defenses and hearing the concerned and/or his counsel, a reasoned opinion for the minister of Economy.

In case the minister of Economy decides to withdraw, he makes a reasoned decision. This decision contains in particular the following elements:

- 1° the legal ground of the decision;
- 2° the description of the facts;
- 3° the considerations which are factually and legally at the basis of the decision, on the one hand as response to the defenses submitted and on the other hand as motivation for the withdrawal of the accreditation.

This decision is taken within forty days after the date on which the accredited expert took note of the registered mail from the FPS Economy in which the possibility of withdrawal is communicated.

The expert is informed of this decision per registered mail with confirmation of receipt. This decision takes effect as of the date of acknowledgement of this registered mail.

§ 11. The foregoing is without prejudice to the principles of common law concerning employment regulations, including the rules concerning the termination of employment contracts.

The minister of Economy is informed of the termination of the employment contract between the accredited expert and the Private Foundation AWDC, regardless of the manner in which it occurred. The termination of the employment agreement automatically also invokes deletion of the accreditation.

§ 12. An expert whose accreditation is withdrawn in accordance with paragraph 10 only becomes eligible for accreditation again if he fulfills the requirements of paragraph 2, in which case he needs to pass a new qualification examination.

Art. 14. The Private Foundation AWDC annually drafts a report on the implementation of the tasks assigned to it for the implementation of this decree and the fees it charges for these tasks.

The annual report is submitted to the minister of Economy ultimately 31 March of the calendar year following on the year which the report relates to.

Art. 15. The FPS Economy is responsible for the processing of the data which this decree relates to. The FPS Economy determines the purposes for which the personal data are processed as well as the means used and the processing characteristics.

Art. 16. The Service of the FPS Economy will not store personal data longer than is necessary for the realization of the purposes for which the data are collected.

All data which the FPS Economy collects with regard to the declaration of releasing diamond(s) and/or synthetic diamond(s) for free circulation or export, are kept for five years. After this period, the personal data are deleted or anonymized.

Art. 17. The royal decree of 30 April 2004, amended by the royal decree of 26 August 2010, on measures pertaining to the supervision of the diamond industry, is repealed.

Art. 18. This decree enters into force ten days after its publication in the Belgian Official Gazette.

All traders in diamonds and/or synthetic diamonds which were already registered with the Service of the FPS Economy on the date of entry into force of this decree, are to submit the documents referred to in article 2, § 1, second section, to the Service of the FPS Economy within the period of one year. Article 2, § 4, article 3 and article 4 apply to this extent.

Art. 19. The minister of Finance and the minister of Economy are responsible for the implementation of this decree, each to the extent to which he is concerned.

Given in Brussels, 20 November 2019.

FILIP

By Royal Decree:

The Minister of Finance,
A. DE CROO
The Minister of Economy,
N. MUYLLE