

GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No. 104 Amendment of Diamond Regulations 1

Government Notice

MINISTRY OF MINES AND ENERGY

No. 104

2003

AMENDMENT OF DIAMOND REGULATIONS

The Minister of Mines and Energy has under section 69 of the Diamond Act, 1999 (Act No. 13 of 1999), made the regulations contained in the Schedule.

SCHEDULE

Definitions

1. In these regulations "the Regulations" means the Regulations published under Government Notice No. 83 of 31 March 2000.

Amendment of regulation 1

2. Regulation 1 of the Regulations is amended by the addition of the following definitions:

"consignment" means one or more packets or parcels of unpolished diamonds that are placed in a tamper-resistant container and are exported or imported;

"export" means the taking out of Namibia in any manner;

“import” means the bringing into Namibia in any manner;

“Kimberley Process” means the international forum of diamond producing and trading countries, the diamond industry and civil society wherein representatives have negotiated the international certification scheme for the international trade in unpolished diamonds;

“Kimberley Process Certificate” means a forgery resistant document in a particular format which identifies a consignment of unpolished diamonds as being in compliance with the requirements of the Kimberley Process Certification Scheme, and which -

- (a) in relation to a consignment of unpolished diamonds exported from Namibia, is issued and validated by the Namibian Exporting Authority; and
- (b) in relation to a consignment of unpolished diamonds imported into Namibia, is issued and validated by a Participant’s Exporting Authority;

“Kimberley Process Certification Scheme” means the International Certification Scheme for the international trade in unpolished diamonds negotiated in the Kimberley Process;

“Namibian Exporting Authority”, means the Minister or a person or body designated by the Minister to issue and validate a Kimberley Process Certificate which is required to accompany a consignment of unpolished diamonds exported from Namibia to a Participant;

“Namibian Importing Authority” means the Minister or a person or body designated by the Minister to verify a Kimberley Process Certificate accompanying a consignment of unpolished diamonds imported into Namibia from the country or territory of a Participant;

“parcel” means one or more unpolished diamonds that are packed together, that are not individualized, and which may contain unpolished diamonds from two or more countries of origin, and has the same meaning as packet;

“Participant” means any state or a regional economic integration organisation enforcing the Kimberley Process Certification Scheme;

“Participant’s Exporting Authority” means the authority or body designated by a Participant as Exporting Authority to issue and validate a Kimberley Process Certificate in respect of unpolished diamonds exported from that country or territory to a Participant;

“Regional Economic Integration Organisation” means an organisation comprised of sovereign states that have transferred competence to that organisation in respect of matters governed by the Kimberley Process Certification Scheme.”.

Insertion of regulations

3. The following regulations are inserted after regulation 6 of the Regulations:

“Conditions for valuation and release of unpolished diamonds for export

6A. (1) Every unpolished diamond submitted to the Minister for valuation in terms of section 45(1) of the Act for export purposes shall be accompanied by an Export Declaration for Unpolished Diamonds in the form as set out in Form 20 of Annexure A.

(2) A consignment must not be released for export in terms of section 45(4) of the Act unless a Kimberley Process Certificate has been issued and validated by the Namibian Exporting Authority in respect of every diamond contained in the consignment.

(3) For the purposes of the issuing and validation of a Kimberley Process Certificate in terms of subregulation (2) -

- (a) the unpolished diamond must be exported to a Participant;
- (b) the unpolished diamond must be inspected by the Namibian Exporting Authority to verify conformity with the Export Declaration referred to in subregulation (1); and
- (c) the parcel into which the unpolished diamonds must be made up in terms of section 45(4)(a) of the Act before release for export must be a tamper-resistant container sealed in the manner determined by the Minister.

(4) The Namibian Exporting Authority must issue and validate a Kimberley Process Certificate in the form set out in Form 21 of Annexure A if he or she is satisfied that the provisions of subregulation (3) have been complied with.

(5) A consignment released for export in terms of section 45(4)(a) must be accompanied on export by the original of the Kimberley Process Certificate issued and validated in respect of the diamond contained therein, and the exporter must be furnished with an authenticated copy of that Certificate.

(6) Particulars of every unpolished diamond in a consignment released for export must be recorded forthwith in the appropriate register maintained by the Namibian Exporting Authority for that purpose.

Conditions for import of unpolished diamonds

6B. (1) No person shall import an unpolished diamond into Namibia unless -

- (a) the person by whom the diamond is imported is the holder of a permit issued in accordance with regulation 6 authorising such import;
- (b) the diamond is imported from a Participant;
- (c) a valid Kimberley Process Certificate has been issued and validated in respect of the diamond by the Participant's Exporting Authority;
- (d) adequate arrangements have been made for the examination of the consignment by the Namibian Importing Authority.

(2) Upon examination of a consignment containing an unpolished diamond, the Namibian Importing Authority must ensure that -

- (a) the parcel in which the diamond is contained on import is accompanied by a valid Kimberley Process Certificate referred to in subregulation (1)(c);
- (b) the container in which the diamond is contained has been properly sealed by the Participant's Exporting Authority and has not been tampered with; and
- (c) the content of the container is inspected to ascertain whether the diamond conforms with the details in the accompanying Kimberley Process Certificate.

(3) A consignment must be returned to the Participant's Exporting Authority if, in the opinion of the Namibian Importing Authority, it has been tampered with.

(4) Upon being satisfied in respect of the matters referred to in subregulations (1) and (2), the Namibian Importing Authority must release the unpolished diamond to the person authorised to import the diamond and furnish that person with an authenticated copy of the Kimberley Process Certificate in respect of the diamond imported.

(5) Particulars of every unpolished diamond released in terms of subregulation (4) must be recorded forthwith in the appropriate register maintained by the Namibian Importing Authority for that purpose.

(6) Details of the consignment must be confirmed by the Namibian Importing Authority with the relevant Participant's Exporting Authority.

(7) The original of the Kimberley Process Certificate must be kept by the Namibian Importing Authority for a minimum period of 3 years.

Power of Minister with regard to unpolished diamond suspected of being exported or imported contrary to law

6C. (1) Should the Minister be of the opinion that the provisions of regulation 6A or 6B have not been complied with or suspect that an unpolished diamond in a consignment has been acquired unlawfully, the Minister may retain such unpolished diamond and -

- (a) inform the exporter or importer of its retention; and
- (b) request the exporter or importer to provide proof and reasons as to why that diamond should not be retained.

(2) Should the proof and reasons provided in accordance with subregulation (1)(b) be acceptable, the Minister must -

- (a) in the case of an exporter, release that diamond for export in terms of section 45(4)(a) of the Act; or
- (b) in the case of an importer, release that diamond in accordance with subregulation 6B(4).

(3) If the Minister is not satisfied with the proof and reasons provided in accordance with subregulation 1(b), the Minister must -

- (a) inform the person intending to export or import the diamond thereof; and
- (b) cause an investigation to be conducted.

(4) Upon completion of the investigation, the Minister may take any appropriate action according to law, which may include -

- (a) the return of the unpolished diamond to the rightful owner thereof;
- (b) the return of the unpolished diamond to the country of origin; or
- (c) referral of the matter to an appropriate law enforcement authority."

Amendment of Annexure A

4. The forms set out in the Annexure are added to Annexure A of the Regulations.

ANNEXURE

"FORM 20

EXPORT DECLARATION FOR UNPOLISHED DIAMONDS
(Regulation 6A(1))

A. PARTICULARS OF EXPORTER

Name/Company Name:
 Identity Number/Company Registration No.
 Address:

B. PARTICULARS OF CONSIGNEE

Name:
 Address:

C. CHARACTERISTICS OF DIAMONDS

	Carat Mass/Weight	Value US\$
GEM		
INDUSTRIAL		
TOTAL		

D. COUNTRY OR TERRITORY OF ORIGIN/PROVENANCE OF CONSIGNMENT:**E. DECLARATION**

- (i) I hereby declare that the unpolished diamonds mentioned above have been acquired in a lawful manner; and
- (ii) the prescribed register in terms of section 46 of the Diamond Act, 1999, confirming substantiation of such acquisition has been submitted to the Minister of Mines and Energy.

Signature:

Date:

**NOTE: Insert:*

"country of origin" being the country where a consignment of unpolished diamond has been mined or extracted;

OR

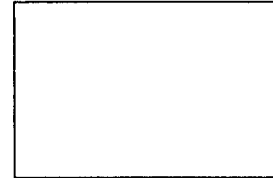
"country of provenance" being the last participant from where a consignment of unpolished diamonds was exported, as recorded in import documentation.

REPUBLIC OF NAMIBIA
KIMBERLEY PROCESS CERTIFICATE

NA.....

MINISTRY OF MINES AND ENERGY

HS CODE	Carat Mass	Value (US\$)
7102.21		
7102.31		



Country of origin
Number of Parcels

Stamp of Diamond
Commissioner

It hereby is certified that the unpolished diamonds
in this consignment have been handled in accordance with the provisions
of the Kimberley Process International Certification Scheme for
Rough diamonds

.....
Date of Issue

.....
Name of Exporter

.....
Date of Expiry

.....
Name of Importer

.....
Address of Importer

.....
Signature of Registering officer

..... (Perforation)

Name of Importing Authority:

Date of Receipt of Importing Authority:

IMPORT CONFIRMATION

This is to certify that the unpolished diamonds accompanied by Republic of Namibia
Kimberley Process Certificate No. were imported into and verified in
compliance with the Kimberley Process Certification Scheme for Rough Diamonds. Copy
of certificate to accompany confirmation.

Importing authority:

Date:

Signature:”
