

Council Regulation (EC) No 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds

CHAPTER II

IMPORT REGIME

Article 3

[^{F1}The import of rough diamonds into the Community⁽¹⁾ territory or Greenland shall be prohibited unless all of the following conditions are fulfilled:]

- (a) the rough diamonds are accompanied by a certificate validated by the competent authority of a participant;
- (b) the rough diamonds are contained in tamper-resistant containers, and the seals applied at export by that participant are not broken;
- (c) the certificate clearly identifies the consignment to which it refers.

Textual Amendments

- F1** Substituted by [Regulation \(EU\) No 257/2014 of the European Parliament and of the Council of 26 February 2014 amending Council Regulation \(EC\) No 2368/2002 as regards the inclusion of Greenland in implementing the Kimberley Process certification scheme.](#)

Article 4

[^{F1} Containers and the corresponding certificates shall without delay be submitted for verification together, to a Community authority either in the Member State where they are imported or in the Member State for which they are destined, as indicated in accompanying documents. Containers destined for Greenland shall be submitted for verification to one of the Community authorities, either in the Member State where they are imported, or in one of the other Member States where a Community authority is established.]

2 In cases where rough diamonds are imported into a Member State where there is no Community authority, they shall be submitted to the appropriate Community authority in the Member State for which they are destined. If a Community authority exists neither in the importing Member State nor in the Member State of destination they shall be submitted to an appropriate Community authority in another Member State.

3 The Member State where the rough diamonds are imported shall ensure their submission to the appropriate Community authority provided for in paragraphs 1 and 2. Customs transit may be granted to that effect. If such customs transit is granted, the verification provided for by this Article shall be suspended until arrival at the appropriate Community authority.

4 The importer shall be responsible for the proper movement of the rough diamonds and the costs thereof.

5 A Community authority shall opt for either of the following methods to verify that the content of a container matches the particulars on the corresponding certificate:

- a it will open each container with a view to such verification; or

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 2368/2002. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- b it will identify the containers to be opened with a view to such verification on the basis of a risk analysis or equivalent system that gives due consideration to rough diamond shipments.
- 6 A Community authority shall complete the verification without delay.

Textual Amendments

- F1** Substituted by Regulation (EU) No 257/2014 of the European Parliament and of the Council of 26 February 2014 amending Council Regulation (EC) No 2368/2002 as regards the inclusion of Greenland in implementing the Kimberley Process certification scheme.

Article 5

- 1 If a Community authority establishes that the conditions in Article 3 are:
- a fulfilled, it shall confirm this on the original certificate and provide the importer with an authenticated and forgery-resistant copy of that confirmed certificate. This confirmation procedure shall take place within 10 working days of the submission of the certificate;
 - b not fulfilled, it shall detain the shipment.
- 2 If a Community authority finds that the failure to fulfil the conditions is not made knowingly or intentionally or is the result of an action by another authority in the exercise of its proper duties, it may proceed with the confirmation and release the shipment, after the necessary remedial measures have been taken to ensure that the conditions are met.
- 3 A Community authority shall, within one month, inform the Commission and the competent authority of the participant that purportedly issued or validated the certificate for the shipment of any failure to fulfil the conditions.

Article 6

- 1 Until the date of applicability of the Articles referred to in Article 29(3), a Member State may certify stocks of rough diamonds that have been imported or are present in the Community territory before that date. After that date, rough diamonds from certified stocks shall be considered to have fulfilled the conditions laid down in Article 3.
- 2 In all other cases, a Community authority may issue a confirmation that it considers rough diamonds to have fulfilled the conditions of Article 3, if it has established that those diamonds were legally present in the Community at that date and have been so since.

Article 7

Notwithstanding the provisions of Articles 3, 4 and 5, a Community authority may allow the import of rough diamonds if the importer provides conclusive evidence that those diamonds were destined for import into the Community and were exported 5 working days or less before the date of applicability of the Articles referred to in Article 29(3).

In such cases, the Community authority concerned shall issue the importer with a confirmation of legal import, to the effect that those diamonds shall be considered to have fulfilled the conditions of Article 3.

Article 8

[^{F1} The Commission shall consult participants on the practical arrangements for providing the competent authority of the exporting participant that has validated a certificate with confirmation of imports into the Community territory or Greenland.]

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2 On the basis of these consultations the Commission shall, in accordance with the procedure referred to in Article 22(2), lay down guidelines for such confirmation.

Textual Amendments

- F1** Substituted by [Regulation \(EU\) No 257/2014 of the European Parliament and of the Council of 26 February 2014 amending Council Regulation \(EC\) No 2368/2002 as regards the inclusion of Greenland in implementing the Kimberley Process certification scheme.](#)

Article 9

The Commission shall provide all Community authorities with authenticated specimens of the participants' certificates, the names and other relevant details of the participants issuing and/or validating authorities, authenticated specimens of stamps and signatures attesting that a certificate has been legally issued or validated and any other relevant information received in respect of certificates.

Article 10

1 Community authorities shall provide the Commission with a monthly report on all certificates submitted for verification under Article 4.

For each certificate this report shall list at least:

- a the unique certificate number,
- b the name of the issuing and validating authorities,
- c the date of issue and validation,
- d the date of expiry of validity,
- e the country of provenance,
- f the country of origin, where known,
- g the HS code(s),
- h the carat weight,
- i the value,
- j the verifying Community authority,
- k the date of verification.

The Commission may, in accordance with the procedure referred to in Article 22(2), determine the format of this report in order to facilitate monitoring of the certification scheme's working.

2 The Community authority shall keep the originals of certificates provided for under Article 3(a) submitted for verification for at least three years. It shall provide the Commission or persons or bodies designated by the Commission with access to these original certificates in particular with a view to answering questions raised within the framework of the KP certification scheme.

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- (1) [^{F1}With effect from 1 December 2009 the Treaty on the Functioning of the European Union introduced certain changes in terminology, such as the replacement of ‘Community’ by ‘Union’.]

Textual Amendments

- F1** Substituted by [Regulation \(EU\) No 257/2014 of the European Parliament and of the Council of 26 February 2014 amending Council Regulation \(EC\) No 2368/2002 as regards the inclusion of Greenland in implementing the Kimberley Process certification scheme.](#)

Changes to legislation:

There are outstanding changes not yet made to Council Regulation (EC) No 2368/2002. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- Regulation words substituted by [S.I. 2019/844 reg. 3\(2\)\(a\)](#)
- Regulation words substituted by [S.I. 2019/844 reg. 3\(2\)\(b\)](#)
- Regulation words substituted by [S.I. 2019/844 reg. 3\(2\)\(c\)](#)

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Art. 1 words omitted by [S.I. 2019/844 reg. 4\(3\)](#)
- Art. 1 words substituted by [S.I. 2019/844 reg. 4\(2\)](#)
- Annex 2-5 omitted by [S.I. 2019/844 reg. 30](#)
- Art. 2(c) words substituted by [S.I. 2019/844 reg. 5\(2\)](#)
- Art. 2(f) substituted by [S.I. 2019/844 reg. 5\(3\)](#)
- Art. 2(g) substituted by [S.I. 2019/844 reg. 5\(4\)](#)
- Art. 2(o)-(q) omitted by [S.I. 2019/844 reg. 5\(5\)](#)
- Art. 3 words omitted by [S.I. 2019/844 reg. 6](#)
- Art. 4(1) substituted for Art. 4(1)-(3) by [S.I. 2019/844 reg. 7](#)
- Art. 5(3) words omitted by [S.I. 2019/844 reg. 8](#)
- Art. 6 omitted by [S.I. 2019/844 reg. 9](#)
- Art. 7 omitted by [S.I. 2019/844 reg. 10](#)
- Art. 8(1) words omitted by [S.I. 2019/844 reg. 11\(2\)\(b\)](#)
- Art. 8(1) words substituted by [S.I. 2019/844 reg. 11\(2\)\(a\)](#)
- Art. 8(2) omitted by [S.I. 2019/844 reg. 11\(3\)](#)
- Art. 9 omitted by [S.I. 2019/844 reg. 12](#)
- Art. 10(1) omitted by [S.I. 2019/844 reg. 13\(2\)](#)
- Art. 10(2) words substituted by [S.I. 2019/844 reg. 13\(3\)\(a\)](#)
- Art. 10(2) words substituted by [S.I. 2019/844 reg. 13\(3\)\(b\)](#)
- Art. 11 words omitted by [S.I. 2019/844 reg. 14\(2\)](#)
- Art. 11(a) words inserted by [S.I. 2019/844 reg. 14\(3\)](#)
- Art. 11(a) words substituted in earlier amending provision [S.I. 2019/844, reg. 14\(3\)](#) by [S.I. 2020/1473 reg. 3](#)
- Art. 12(1)(a)(i) word omitted by [S.I. 2019/844 reg. 15\(2\)](#)
- Art. 12(1)(a)(ii) omitted by [S.I. 2019/844 reg. 15\(3\)](#)
- Art. 12(5) word omitted by [S.I. 2019/844 reg. 15\(4\)](#)
- Art. 13 words substituted by [S.I. 2019/844 reg. 16\(2\)](#)
- Art. 13 words substituted by [S.I. 2019/844 reg. 16\(3\)](#)
- Art. 14(3) words omitted by [S.I. 2019/844 reg. 17](#)
- Art. 15(1) omitted by [S.I. 2019/844 reg. 18\(2\)](#)
- Art. 15(2) substituted by [S.I. 2019/844 reg. 18\(3\)](#)
- Art. 16(1) words substituted by [S.I. 2019/844 reg. 19\(2\)\(a\)](#)
- Art. 16(1) words substituted by [S.I. 2019/844 reg. 19\(2\)\(b\)](#)
- Art. 16(2) omitted by [S.I. 2019/844 reg. 19\(3\)](#)
- Art. 17(1) words substituted by [S.I. 2019/844 reg. 20\(2\)\(a\)](#)
- Art. 17(1) words substituted by [S.I. 2019/844 reg. 20\(2\)\(b\)](#)
- Art. 17(2)(a) words omitted by [S.I. 2019/844 reg. 20\(3\)\(a\)](#)
- Art. 17(2)(a)(ix) words inserted by [S.I. 2019/844 reg. 20\(3\)\(b\)](#)
- Art. 17(2)(a)(ix) words substituted in earlier amending provision [S.I. 2019/844, reg. 20\(3\)\(b\)](#) by [S.I. 2020/1473 reg. 4](#)
- Art. 17(2)(b)(ii) words substituted by [S.I. 2019/844 reg. 20\(3\)\(c\)](#)
- Art. 17(2)(c) words omitted by [S.I. 2019/844 reg. 20\(3\)\(d\)](#)

- Art. 17(3) words omitted by S.I. 2019/844 reg. 20(4)(a)
- Art. 17(3) words omitted by S.I. 2019/844 reg. 20(4)(b)
- Art. 17(4) substituted by S.I. 2019/844 reg. 20(5)
- Art. 17(5)(b) omitted by S.I. 2019/844 reg. 20(6)
- Art. 17(6) words omitted by S.I. 2019/844 reg. 20(7)(a)
- Art. 17(6) words omitted by S.I. 2019/844 reg. 20(7)(b)
- Art. 17(6) words omitted by S.I. 2019/844 reg. 20(7)(c)
- Art. 17(7) omitted by S.I. 2019/844 reg. 20(8)
- Art. 17(8) words omitted by S.I. 2019/844 reg. 20(9)(a)
- Art. 17(8) words substituted by S.I. 2019/844 reg. 20(9)(b)
- Art. 17(9) omitted by S.I. 2019/844 reg. 20(10)
- Art. 17(10) words substituted by S.I. 2019/844 reg. 20(11)
- Art. 18 words omitted by S.I. 2019/844 reg. 21(2)
- Art. 18 words substituted by S.I. 2019/844 reg. 21(3)
- Art. 19(1) omitted by S.I. 2019/844 reg. 22(2)
- Art. 19(2) words substituted by S.I. 2019/844 reg. 22(3)
- Art. 19(3) omitted by S.I. 2019/844 reg. 22(4)
- Art. 19(4) words substituted by S.I. 2019/844 reg. 22(5)
- Art. 19(5) omitted by S.I. 2019/844 reg. 22(6)
- Art. 19(6) omitted by S.I. 2019/844 reg. 22(7)
- Art. 20 words substituted by S.I. 2019/844 reg. 23
- Art. 21-23 omitted by S.I. 2019/844 reg. 24
- Art. 24(3) omitted by S.I. 2019/844 reg. 25
- Art. 25 words omitted by S.I. 2019/844 reg. 26
- Art. 26 words omitted by S.I. 2019/844 reg. 27
- Art. 28 words substituted by S.I. 2019/844 reg. 28
- Art. 29 substituted by S.I. 2019/844 reg. 29