



## Memorandum D19-6-4

Ottawa, December 8, 2015

### Kimberley Process – Export and Import of Rough Diamonds

#### In Brief

This memorandum has been updated:

- (a) to include a link for Kimberley Process Participants previously listed in Appendix A;
- (b) to replace Appendix A with Required Data Elements for Kimberley Process Certificates;
- (c) to add a section for in-transit shipments; and,
- (d) to include information regarding the Single Window Initiative.

This memorandum outlines and explains the legislation, regulations and general guidelines that apply to the exportation and importation of rough diamonds out of or into Canada.

#### Legislation

[Export and Import of Rough Diamonds Act](#) – sections 7(1), 8(1), 14(1) and 41(1)(a) and (b)

[Customs Tariff](#)

[Customs Act](#) – sections 101 and 107(5)

[Canada Border Services Agency Act](#) – sections 5(1) and 5(2)

#### Guidelines and General Information

1. This memorandum contains guidelines and information on the [Kimberley Process Certification Scheme](#) for the trade in rough diamonds. On January 1, 2003, the provisions of the [Export and Import of Rough Diamonds Act](#) and its associated [regulations](#) became law. This legislation is the responsibility of [Natural Resources Canada](#) (NRCan). The Canada Border Services Agency (CBSA) and the [Royal Canadian Mounted Police](#) (RCMP) will assist NRCan with the border enforcement aspects of the Kimberley Process Certification Scheme.
2. The [Export and Import of Rough Diamonds Act](#) was introduced as a result of commitments made by several countries, including Canada, that participate in the Kimberley Process Certification Scheme. A list of participants can be found at the following link: [Kimberley Process Participants](#).
3. The purpose of the Certification Scheme is to prevent the international movement of conflict or “blood” diamonds that are being used to fund rebel activities in various African countries. The Scheme requires imports and exports of rough diamonds to be accompanied by valid Kimberley Process certificates (KPCs) and transported in tamper-resistant containers.
4. The [Export and Import of Rough Diamonds Act](#) defines a rough diamond as “a diamond that is unsorted, unworked or simply sawn, cleaved or bruted, and that falls under subheading 7102.10, 7102.21 or 7102.31 in the List of Tariff Provisions set out in the schedule to the [Customs Tariff](#)...” **Diamonds that are cut and polished and ready to be mounted, set or fitted do not fall under the provisions of the Act and do not require a KPC.**

5. The Minister of Natural Resources has designated NRCan inspectors and the RCMP to respectively administer and enforce the [Export and Import of Rough Diamonds Act](#).
6. The CBSA's role is to review the KPCs, verify that appropriate containers are used and detain shipments that appear to violate the [Export and Import of Rough Diamonds Act](#).
7. Information relating to Canadian diamonds that are exported and then returned to Canada can be found in [Memorandum D10-14-39, Canadian Diamonds Exported and Returned](#).

## Import Controls

8. Every person who imports rough diamonds into Canada must ensure that the rough diamonds are in a container that meets the requirements described in the section called Containers and Seals of this memorandum and is accompanied by a KPC (the KPC has to physically accompany the shipment) that:
  - (a) has been issued by a participant;
  - (b) has not been invalidated by the participant;
  - (c) contains accurate information; and,
  - (d) contains the data elements listed in the Appendix.
9. If there are no discrepancies between the KPC and the import documentation at the time of importation, the CBSA will stamp the KPC with the CBSA Integrated Stamp and return it to the importer.
10. The importer or the importer's authorized agent must forward the KPC, within seven days after import, to NRCan at the address provided in this memorandum in the section called Additional Information.
11. The CBSA will detain shipments if any of the following circumstances occur:
  - (a) no KPC is presented and the goods are suspected to be rough diamonds;
  - (b) discrepancies are identified on the KPC;
  - (c) the KPC is suspected to be fraudulent;
  - (d) the shipment is imported from a non-participant;
  - (e) the packaging requirements are not met; or
  - (f) the KPC has expired.

## Form B3-3 Coding Requirements

12. Importers should be aware that specific coding requirements apply to imports of rough diamonds that are classified under tariff item Nos. 7102.10, 7102.21, 7102.31 and 9813.00.00.41. The KPC that is required for imports of rough diamonds has a unique identification number. This identification number must be entered in field 26 (special authority) of Form [B3-3, Canada Customs Coding Form](#), at the time of accounting.
13. In most cases, it will be possible to enter the KPC number in field 26 of Form [B3-3](#) as it appears on the certificate. For example, the KPC number that appears on the United States certificate starts with US, while the European Union KPC number starts with EU. However, as the format of the KPC number varies among the participating countries and because there are field limitations, it may be necessary for the importer to modify the number before entering it. The following rules apply when completing field 26:
  - (a) the KPC number **must begin with the two-letter country code**. The country code must be added to the beginning of the number if it is not included;
  - (b) the KPC number must be **no more than 16 characters**. If it is longer than 16 characters, then the appropriate number of characters should be deleted from the end of the number;
  - (c) the KPC number **should not contain any dashes, hyphens or slashes**. These characters must be removed from the number.

14. Clients using Customs Automated Data Exchange (CADEX) system and Customs Declaration (CUSDEC) system should refer to the mapping requirements listed in the [Electronic Commerce Client Requirements Document, Chapter 14](#) to find out how to input this number into field 26 of Form [B3-3](#).

15. In the event that an Order in Council applies to the shipment, the Form [B3-3](#) will require a two-line entry because both an Order in Council number and a KPC identification number must be quoted in field 26. The form must be completed as described below:

- (a) the first line should detail all the required data including the actual value for duty with the order-in council number shown in field 26; and,
- (b) the second line should have the same quantity and classification as the previous line, but the value for duty will be zero (to ensure that no additional duties and taxes are calculated) and the KPC number should appear in field 26.

## Export Controls

16. Every person who exports rough diamonds from Canada must ensure that the diamonds are in a proper container that meets the requirements in the section called Containers and Seals and are accompanied by a valid Canadian KPC.

17. At the time of export, if there are no discrepancies between the Canadian KPC and the export documentation, the CBSA will date-stamp the export declaration and exporter's copy portion of the KPC and return them to the exporter.

18. The exporter or the exporter's agent must forward the export declaration portion of the KPC, within seven days after export, to the Kimberly Process Office at NRCAN at the address provided on the reverse side of the KPC.

19. The CBSA will detain shipments and immediately contact NRCAN's Kimberley Process Office to get instructions on how to proceed if any of the following circumstances occur:

- (a) no KPC is presented and the goods are suspected to be rough diamonds;
- (b) discrepancies are identified on the KPC;
- (c) the KPC is suspected to be fraudulent;
- (d) the shipment is about to be exported to a non-participant;
- (e) the packaging requirements are not met; or
- (f) the KPC has expired.

## In-transit Shipments

20. As per the [Export and Import of Rough Diamonds Act](#), shipments of rough diamonds that are transiting Canada (in-transit shipments) are not considered to be imported into Canada or exported from Canada.

21. In-transit shipments can be seized if they are not accompanied by a KPC certificate or are in a container that has been opened. However, if the Minister of Natural Resources orders the shipment to be returned to the participant who exported it then the rough diamonds cannot be seized.

22. In the event that the shipment transiting Canada cannot make an immediate connecting flight to the final destination, the CBSA will issue the person transporting the sealed container a BSF241, *Non-monetary General Receipt* and the shipment will remain in CBSA's custody and control until the connecting flight is ready for departure. At that time the CBSA will deliver the shipment, to the person issued the BSF241, at the gate to ensure the goods are exported.

## Single-Window Initiative and the Kimberley Process Rough Diamonds Program

23. The [Single Window Initiative](#) (SWI) provides commercial importers with the ability to submit electronic information to the CBSA, in advance of their arrival, through the use of the Integrated Import Declaration (IID)

using service option 911. This new service is voluntary and provides the ability for importers and brokers to obtain release of various regulated goods that previously could only be released through a paper process. The IID can be submitted up to 90 days in advance and the trade chain partner will be able to receive border decisions related to the release of the diamonds up to 90 days in advance of their arrival.

24. In order to meet the SWI commitment to reduce paper, a new Document Image Functionality (DIF) has been developed. The DIF, service option 927, allows importers and brokers to electronically submit digital images of documents that traditionally needed to be presented with the importation documentation.

**Note: In the case of rough diamonds importations**, if commercial importers decide to submit advance electronic information to the CBSA using the SWI service, the **submission of the KPC number remains mandatory**; however, the submission of the KPC image is optional; **an original KPC must still accompany the shipment into Canada and be verified by the CBSA at the point of entry for authenticity**. Lastly, presentation of the original KPC to the CBSA, at the time of release and for further validation, must be accompanied by a “Release Information Sheet” (refer to [Memorandum D17-1-4, Release of Commercial Goods](#) (Appendix D).

25. The SWI IID [Electronic Commerce Client Requirements Document \(ECCRD\)](#) provides technical and system requirements information. Appendix B of the ECCRD includes a list of required data elements for Natural Resources Canada. For more information on the SWI, please refer to the [CBSA Website](#).

## Containers and Seals

26. A container that is used to export or import rough diamonds must be constructed so that it cannot be opened when sealed without showing evidence of having been opened. In addition, a container in which rough diamonds are exported from Canada must be secured with a seal that bears a seal number listed on the accompanying Canadian KPC. If a situation arises where a seal is broken at the time of export from Canada, either as a result of a CBSA examination or damage in-transit, the exporter will be advised to take steps to have the container resealed. In the event that an imported shipment is examined and the seal is broken, the importer will be contacted to determine if he wishes to reseat the container before the goods are released. NRCan should also be informed of **any situation** where the seal has been broken.

## Penalties

27. Subsection 41.(1) of the [Export and Import of Rough Diamonds Act](#) sets out the following penalties for various offences under this Act: (a) an indictable offence and liable to a fine in an amount that is in the discretion of the court or to imprisonment for a term not exceeding 10 years, or to both; or (b) an offence punishable on summary conviction and liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months, or to both.

28. In the event that a CBSA infraction may also apply to the shipment (e.g., smuggling or false statements are made regarding the country of origin in the case of imports; non-report or false statements are made regarding the destination country in the case of exports), the CBSA will detain the goods and charges may be laid under both the [Customs Act](#) and the [Export and Import of Rough Diamonds Act](#).

## Additional Information

29. For more information on the requirements of the Kimberley Process, contact:

Kimberley Process Office  
Minerals and Metals Sector  
Natural Resources Canada  
580 Booth Street, 10th floor  
Ottawa ON K1A 0E4

Telephone: 343-292-8710  
**1-866-539-0766** (toll-free)  
Fax: 613-943-2079

Email: [kpc-cpk-canada@nrcaan-rncaan.gc.ca](mailto:kpc-cpk-canada@nrcaan-rncaan.gc.ca)

Website: [Kimberley Process for Rough Diamonds](#)

Office hours: 9:00 a.m. to 5:00 p.m. Monday to Friday

30. Questions concerning the administration of these procedures from a CBSA perspective should be directed to the [CBSA Border Information Service \(BIS\)](#) online, or call BIS toll-free in Canada at **1-800-461-9999**. If you are calling from outside Canada, you can access BIS by calling 204-983-3500 or 506-636-5064 (long-distance charges will apply). BIS agents are available, during regular business hours from Monday to Friday (except holidays), 8:00 to 16:00 local time. TTY is also available within Canada: **1-866-335-3237**.

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## Appendix

### Required Data Elements for Kimberley Process Certificates

1. Identification of importer and exporter
2. Carat weight
3. Value in U.S. dollars
4. Harmonized System subheading
5. Name of issuing authority
6. Unique KPC identification number (beginning with the two-letter country code)
7. Date of issue
8. Date of expiry
9. Number of packages/parcels or containers
10. Validation by issuing authority
11. Country of origin of unmixed (i.e. from same) mining origin

**Note 1:** A certificate should bear the title “Kimberley Process Certificate” and have the following statement: “The rough diamonds in this shipment have been handled in accordance with the provisions of the Kimberley Process Certification Scheme for rough diamonds.”

**Note 2:** A Kimberley Process Certificate issued to export rough diamonds from Canada will apply to one shipment, identify the appropriate seal number(s) and be valid for a period of 60 days.

<b>References</b>	
<b>Issuing Office</b>	Commercial Programs Policy and Management Division Commercial Programs Directorate Programs Branch
<b>Headquarters File</b>	7935-26
<b>Legislative References</b>	<a href="#"><i>Export and Import of Rough Diamonds Act</i></a> <a href="#"><i>Customs Tariff</i></a> <a href="#"><i>Customs Act</i></a> <a href="#"><i>Canada Border Services Agency Act</i></a>
<b>Other References</b>	<a href="#">D10-14-39</a> , <a href="#">D17-1-4</a> Forms <a href="#">B3-3</a> and BSF241
<b>Superseded Memorandum D</b>	D19-6-4 dated April 28, 2009