

KIMBERLEY PROCESS CERTIFICATE ACT, 2003 (ACT 652)

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ACT OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

KIMBERLEY PROCESS CERTIFICATE ACT, 2003

AN ACT to provide for the requirement of Kimberley Process Certificate for the export and import of rough diamonds and to provide for related matters.

DATE OF ASSENT: 24th October, 2003.

BE IT ENACTED by Parliament as follows:

Section 1—Kimberley Process Certificate Required for Export of Rough Diamonds.

A person who has been granted a licence under section 3 of the Minerals and Mining Law, 1986 (PNDCL 153) shall not export rough diamonds unless that person has applied for and been issued a Kimberley Process Certificate, referred to in this Act as the "Kimberley Certificate" by the Minister.

Section 2—Application for Kimberley Certificate.

An application for a Kimberley Certificate shall be as in Form 1 set out in the Schedule to this Act, and shall be made to the Minister.

Section 3—Issue and Form of Kimberley Certificate.

(1) The Minister may where all the information required to be given under section 2 is supplied, issue a Kimberley Certificate in respect of the rough diamonds to which the application relates, within three days from the date of submission of the application.

(2) An applicant who does not comply with section 2 shall not be issued with a Kimberley Certificate.

(3) The Kimberley Certificate shall contain the information provided in Form 2 set out in the Schedule.

Section 4—Export Report.

(1) An exporter of rough diamonds shall prepare a report which shall be as in Form 3 set out in the Schedule.

(2) Form 3 shall be presented to a customs officer at the time of export and a copy shall be sent to the Minister by mail, courier or delivered by hand within seven days after the export.

Section 5—Import Report.

(1) An importer of rough diamonds shall prepare a report which shall be as in Form 4 set out in the Schedule and shall be presented to a customs officer at the time of clearing the import.

(2) Form 4 shall be accompanied with a Kimberley Certificate issued by the exporting authority responsible for rough diamonds in the country of origin of the rough diamonds.

(3) A copy of Form 4 and the Kimberley Certificate from the exporter shall be sent to the Minister by mail, courier or delivered by hand within seven days after the importation of the rough diamonds.

Section 6—Packaging of Rough Diamonds for Export and Import.

(1) Rough diamonds shall be exported or imported in containers in accordance with this Act.

(2) A container for the export or import of rough diamonds shall be constructed in a manner that makes the reseal of the container impossible after it is opened.

(3) The container in which rough diamonds are exported shall bear the serial number of the accompanying Kimberley Certificate.

Section 7—Record Keeping of Rough Diamond Trade.

A person who exports or imports rough diamonds shall keep in respect of the rough diamonds the following records:

(a) the serial numbers of the Kimberley Certificates; and

(b) the purchase order, invoice or similar document if the rough diamonds were purchased or otherwise obtained by the exporter or importer.

Section 8—Suspension and Cancellation of Licence.

(1) The Minister may suspend or cancel a licence issued to an exporter of rough diamonds under section 1 if the holder

(a) fails to submit a report required under section 4 or 5 of this Act;

(b) is in breach of any provision of this Act or any other enactment relating to the export and import of rough diamonds;

(c) makes any statement to the Minister in connection with a Kimberley Certificate which the exporter knows or ought to have known to be false; or

(d) for any reason becomes ineligible to apply for a Kimberley Certificate under this Act.

(2) The Minister shall before suspending or cancelling a licence, give notice to the holder in such manner as the Minister may determine and shall in the notice require the holder to remedy the breach and where the breach cannot be remedied, show cause to the satisfaction of the Minister why the licence should not be suspended or cancelled.

(3) On cancellation of a licence, the rights of the holder shall cease but without prejudice to any liabilities or obligations incurred by any person prior to the date of the cancellation.

Section 9—Offence.

(1) A person who is in breach of any provision of this Act commits an offence and is liable on summary conviction to a fine not exceeding 500 penalty units or a term of imprisonment not exceeding two years or both.

(2) The Diamonds, the subject of the conviction shall be forfeited to the state.

Section 10—Interpretation.

In this Act unless the context otherwise requires—

"Harmonized System" means the Harmonized Commodity Description and Coding System set out in the Customs Tariff;

"Kimberley Certificate" means

(a) in relation to the export of rough diamonds from Ghana, the certificate issued by the Minister or a person authorised by the Minister for the export of rough diamonds from this country;

(b) in relation to the import of rough diamonds, a similar Kimberley Certificate issued by the respective authority of the exporting country for the export of rough diamonds;

"Minister" means the Minister responsible for mines.

SCHEDULE

FORM 1

(Section 2)

Application for Kimberley Certificate

(Section 2)

Name and address of applicant exporter/company

Name and address of applicant where not the exporter

Name and address of consignee of rough diamonds

Origin of rough diamonds

Longitude and latitude of exploration site

Place and name of the facility where diamonds extracted

Place and name of the mine

Mass of rough diamonds measured in carats

Value of rough diamonds in U.S. Dollars or the cedi equivalent

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I hereby declared that the information contained in this application is correct.

Date

Name

Signature

FORM 2

(Section 3)

Form of Kimberley Certificate

(Section 3)

Name and address of exporter/company

Name and address of consignee

Mass of rough diamonds measured in carats

Value of rough diamonds in U.S. Dollars or the cedi equivalent

Harmonized System for the rough diamonds

Number of containers in shipment

Serial number for each container

Date of issue and expiry of certificate

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

Date

Minister responsible for Mines

FORM 3

(Section 4)

Export report for rough diamonds

Name and address of exporter

Name and address of consignee

Serial number of Kimberley Certificate

Date of export of rough diamonds

I hereby attest to the accuracy of the contents of this report.

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

Date

Name

Signature

Note: This report shall be authenticated by a customs officer at the time of exportation of the rough diamonds and the duplicate of a report shall be given to the customs officer at the time of exportation of the rough diamonds.

FORM 4

(Section 5)

Report on import of rough diamonds

Name and address of importer

Name and address of consignee

Serial number of Kimberley Certificate

Date of import of rough diamonds

I hereby attest to the accuracy of the contents of this report.

Date

Name

Signature

Note: This report shall be authenticated by a customs officer at the time of clearance of the rough diamonds and the duplicate of a report shall be given to the customs officer at the time of clearance of the rough diamonds.

Date of Gazette Notification: 24th October, 2003.