

Kimberley Process

What is the Kimberley Process?

- ❑ The Kimberley Process is a joint government, international diamond industry and civil society initiative to stem the flow of conflict diamonds.
- ❑ 'Conflict diamonds' are rough diamonds that are used by rebel movements to finance wars against legitimate governments. The trade in these illicit stones has contributed to devastating conflicts in countries such as Angola, the Democratic Republic of Congo and Sierra Leone
- ❑ The Kimberley Process Certification Scheme is an innovative, voluntary system that imposes extensive requirements on Participants to certify that shipments of rough diamonds are free from conflict diamonds.
- ❑ The Kimberley Process is composed of 43 Participants, including the European Community, involved in the production, export and import of rough diamonds and accounts for approximately 98% of the world trade in rough diamonds.
- ❑ The KPCS scheme came into effect from January 1, 2003

System of Warranties Declaration

- ❑ In order to strengthen the credibility of the Kimberley Process agreement, as well as to provide the means by which consumers might more effectively be assured of the origin of their diamonds, the World Diamond Council proposed that the industry create and implement a System of Warranties for diamonds.
- ❑ Under this system, which has been endorsed by all Kimberley Process participants, all buyers and sellers of both rough and polished diamonds must make the following affirmative statement on all invoices:

“The diamonds herein invoiced have been purchased from legitimate sources not involved in funding conflict and in compliance with United Nations resolutions. The seller hereby guarantees that these diamonds are conflict free, based on personal knowledge and/or written guarantees provided by the supplier of these diamonds.”

- ❑ In addition, each company trading in rough and polished diamonds is obliged to keep records of the warranty invoices received and the warranty invoices issued when buying or selling diamonds. This flow of warranties in and warranties out must be audited and reconciled on an annual basis by the company’s own auditors. If asked for, by a duly authorized government agency, these records must be able to prove that you are in compliance with the Kimberley Process
- ❑ Additionally, all industry organizations and their members have adopted the following principles of self-regulation:
 - to trade only with companies that include warranty declarations on their invoices
 - to not buy diamonds from suspect sources or unknown suppliers, or which originate in countries that have not implemented the Kimberley Process Certification Scheme
 - to not buy diamonds from any sources that, after a legally binding due process system, have been found to have violated government regulations restricting the trade in conflict diamonds
 - to not buy diamonds in or from any region that is subject to an advisory by a governmental authority indicating that conflict diamonds are emanating from or available for sale in such region, unless diamonds have been exported from such region in compliance with the Kimberley Process Certification Scheme
 - to not knowingly buy or sell or assist others to buy or sell conflict diamonds;
 - to ensure that all company employees that buy or sell diamonds within the diamond trade are well informed regarding trade resolutions and government regulations restricting the trade in conflict diamonds.

In practice……

- ❑ The KPCS requires that each shipment of rough diamonds being exported and crossing an international border be transported in a tamper-resistant container and accompanied by a government-validated Kimberley Process Certificate.
- ❑ Each certificate should be resistant to forgery, uniquely numbered and include data describing the shipment's content.
- ❑ The shipment can only be exported to a co-participant country in the Kimberley Process. No uncertified shipments of rough diamonds will be permitted to enter a participant's country.
- ❑ Once a certified shipment has entered its country of destination it may be traded – in whole or part – and mixed with other parcels of rough diamonds as long as all subsequent transactions are accompanied by the necessary warranties (SoW)
- ❑ Failure to adhere to these procedures can lead to confiscation or rejection of parcels and/or criminal sanctions.
- ❑ Any rough diamonds being re-exported will also require Kimberley Process Certificates, which will be issued in the exporting country. These re-exports can comprise any combination of rough diamonds that have been previously imported through the KPCS.

What does this mean for each sector in the diamond pipeline?

Mining Companies and Rough Diamond Buyers (at Source)

- ❑ Rough diamonds may not be exported to a Kimberley Process participant unless the export country is a Kimberley Process participant.
- ❑ Mining companies and rough diamond buyers operating in countries where the diamonds are first recovered wishing to export their shipments must ensure that:
 - the country in which they operate is a participant of the Kimberley Process;
 - the country to which they wish to export is also a participant.
- ❑ Further, as a minimum requirement, you will need to keep auditable records to demonstrate that the rough diamonds in your shipment were either mined from your property and/or purchased from other legitimate sources (i.e., if the latter, the purchase must be accompanied by a warranty declaration).
- ❑ You will then need to notify the relevant exporting authority who will validate your shipment, prepare and provide the necessary documentation – including a Kimberley Process Certificate – and seal your diamonds in a tamper-proof container.
- ❑ The arrival of each export must be confirmed by the importer either electronically or by fax.
- ❑ Compliance with the Industry ' s System of Warranties is also necessary and warranties must be included in each sale and/or export of rough diamonds.

What does this mean for each sector in the diamond pipeline?

Recipients of Imported Rough diamonds

- ❑ No Kimberley Process participating country will allow the importation of rough diamonds unless it has been exported from a Kimberley Process country in the prescribed manner.
- ❑ In order to import rough diamonds, the importer and exporter must both be from Kimberley Process countries, you must receive a warranty and a Kimberley Process Certificate from the exporter and you must confirm receipt of the import with the exporter.
- ❑ Once you' ve taken receipt of the shipment, you are free to trade, divide and/or mix the diamonds as you wish, provided you receive or issue warranty invoices for each transaction.
- ❑ In addition, after January 1, 2003, each invoice of every transaction must be carried out under the directives stated above and bear the signed SoW declaration.

Rough Diamond Dealers Trading Within a Country' s Borders

- ❑ Rough diamond dealers within a country will be expected to follow the same guidelines as mentioned above, except for the necessity of Kimberley Process Certificates, which are used only for cross-border shipments.
- ❑ Therefore, rough diamond dealers must ensure that they only purchase rough diamonds from vendors who are able to provide an invoice with the System of Warranties declaration.
- ❑ Under the same industry regulations, they will be expected to keep records of the warranties accompanying both purchases and sales and instruct their independent auditors (accountants) to verify annually that these warranty records have been created and maintained accurately in the normal course of business.

What does this mean for each sector in the diamond pipeline?

Rough Diamond Dealers Who Wish to Re-export

- ❑ For dealers and/or polishers and manufacturers who wish to re-export rough diamonds from countries or territories into which they have already been imported under a Kimberley Process Certificate, an application for a Kimberley Process re-export certificate will have to be made.
- ❑ When presenting your shipment for re-export, you will need to assert to the relevant authority that the diamonds contained in the parcel have been traded and purchased in accordance with Kimberley Process requirements. That is, they were originally imported under the Kimberley Process Certification Scheme and each subsequent transaction was accompanied by a System of Warranties declaration.
- ❑ Essentially, you are required to maintain records of warranties given and warranties received. In order to re-export, you must provide an invoice covering the shipment with the required industry warranty.
- ❑ As a minimum requirement, if asked by a duly authorized government agency, you must be able to demonstrate in an auditable manner that the diamonds contained in the shipment are covered by the necessary warranties. Every year, your auditor must be able to verify that you have maintained accurate and reconcilable records of warranties received and warranties given.

Diamond Polishers and Manufacturers

- ❑ Diamond polishers and manufacturers, when dealing with rough diamonds, are subject to the same guidelines as laid out in the sections on dealing with rough diamond dealers.
- ❑ Additionally, all sales of polished diamonds fall under the voluntary Industry System of Warranties. Therefore, each sale of polished diamonds will require a SoW declaration
- ❑ You are required to maintain records of warranties received and warranties given. Further, on an annual basis, your independent auditor must be able to verify that you have maintained records of warranties received and given.
- ❑ You are not required to apply for a Kimberley Process Certificate when exporting polished diamonds.

Polished Diamond Dealers and Jewelry Manufacturers

- ❑ All sales of polished diamonds fall under the voluntary Industry System of Warranties. Therefore, each sale of polished diamonds will require a SoW declaration on the invoice.
- ❑ You are required to maintain records of warranties received and warranties given. Further, on an annual basis, your independent auditor must be able to verify that you have maintained records of warranties received and given.
- ❑ You are not required to apply for a Kimberley Process Certificate when exporting polished diamonds.

Diamond Jewelry Retailers

- ❑ Retailers have a crucial role to play in helping to ensure that the System of Warranties is both employed and effective.
- ❑ Retailers are therefore required to insist that their suppliers provide warranties for all diamonds polished after January 1, 2003.

- ❑ It is also recommended that retailers:
 - inform your suppliers in writing that you will require a warranty;
 - retain these warranties for at least five years.

Diamonds Mined and/or Polished Prior to January 1, 2003

- ❑ It is commonly understood by parties associated with the Kimberley Process that there are billions of dollars worth of diamonds, both as rough and as polished, in existing inventories. Additionally, there is an even greater volume of polished diamond jewelry owned by consumers, some of which may re-enter the market over time.
- ❑ Therefore, if you are purchasing diamonds that pre-date January 1, 2003, it is recommended that you ensure, to the best of your ability, that these diamonds are from legitimate and known sources, preferably with a statement from the seller attesting to this fact.
- ❑ If you are selling diamonds or jewelry that contains diamonds that pre-date January 1, 2003, you must consider using language such as:

“The diamonds herein invoiced have been purchased prior to January 1, 2003 from sources that, to the best of our knowledge, are reliable. The seller hereby guarantees that they have no personal knowledge or reason to believe that these diamonds are involved in funding conflict and/or have been traded in violation of any United Nations Resolution.”

KIMBERLEY PROCESS (Procedural and Disclosure Requirements)

Procedure for Import of Rough Diamonds

- ❑ Step 1: Exporter (Foreign Seller) makes Commercial Invoice, Self-declaration, Airway Bill, Insurance Certificate and goes to the designated KP Issuing Authority in the country of export for issue of KP Certificate.
- ❑ Step 2 : Designated Authority (in the country of export) checks the contents in the Invoice and based on the self-declaration, issues KP Certificate in four copies (one original and three photo copies). One of the copies is retained by the Designated Authority for purpose of records.
- ❑ Step 3 : Exporter presents the original KP Certificate issued by the exporting authority along with the parcel to customs at the exporting country. Documents are verified and checked, which includes the KP Certificate too. Exporter sends one copy of the KP Certificate with shipment documents to the importer and retains one copy.
- ❑ Step 4 : Designated Authority (in the country of export) at the end of the day transmits the details of KP Certificates issued as per the norms fixed by the KP Secretariat to the designated KP Authority of the importing nation.
- ❑ Step 5 : Parcel containing rough diamonds is sealed by customs along with the original KP Certificate and handed over for air shipment to the destination.
- ❑ Step 6 : The parcel reaches importing nation (e.g. India) and is collected by the Government approved Custodian at the Airport.
- ❑ Step 7 : Approved Carrier transports the parcel to the Custom Clearance Centre.
- ❑ Step 8 : Importer goes to the Designated KP authority in importing country (e.g. GJEPC in India) along with his copy of KP Certificate and other relevant documents viz. Commercial Invoice, Airway Bill, etc, for verification and certification of the copy of the KP certificate received by Importer. Based on the data received from the designated KP authority of exporting country, the designated KP authority of importing country verifies and endorses the copy of the KP Certificate produced by the importer.
- ❑ Step 9: After collecting the copy of the certificate duly stamped and signed by authorized signatory of designated KP authority of importing country, the importer goes to the designated Custom Clearance Centre for clearing the parcel and files the Bill of Entry and presents shipment documents.
- ❑ Step 10 : Custom Clearance Centre will check the parcel and the original KP Certificate inside the parcel with the copy endorsed by GJEPC. The parcel is then handed over to the examiners / appraisers for checking caratage and value. The parcel is then sealed and given to the Custodian at Custom Clearance Centre and original KP Certificate is retained by Customs to be delivered to Designated KP authority at the end of the day.
- ❑ Step 11: The parcel can now be collected by the importer.

Procedure for Export of Rough Diamonds

- ❑ Step 1: Exporter submits Commercial Invoice along with self-declaration documents to designated KP Authority (in exporting country) and applies for the KP Certificate
- ❑ Step 2 : Officials of the Designated KP authority will issue KP certificate (one original and three photocopies) after checking and verifying the documents
- ❑ Step 3 : KP authority retains one copy for record and gives the original and two copies of certificate to the exporter
- ❑ Step 4 : Exporter puts original KP Certificate in the parcel for export and goes with Commercial Invoice and other documents to the Customs for clearance. Exporter sends one copy of KP Certificate with other shipment documents to the Importer and keeps one copy for his own record. Designated KP authority (exporting country) transmits the details of KP Certificate to the designated KP Authority in Importer's country.
- ❑ Step 5: Customs will verify the documents, KP Certificate, caratage and value of diamonds and hand over to the parcel to the Custodian in Customs Clearance Centre. The parcel is sealed by Customs along with original KP Certificate
- ❑ Step 6 : Custodian delivers the parcel to the approved Security Carrier who carries the parcel to the Custodian at the Airport.
- ❑ Step 7: From the Custodian at the airport, the parcel is delivered to the airlines (carriers) for despatch to the concerned destination.

In nutshell...

The Kimberley Process Certification requirements & SOW (Warranty) Declaration requirements are as follows:

K P Certificate

must be attached with each & every invoice for -

- **Import of Rough Diamonds**
- **Re-export of Rough Diamonds**

Two Conditions to be satisfied:

- *Movement is of Rough Diamonds*
- Movement is from One Country to Another Country i.e. **Cross Border Movement.**

SOW or Warranty Declaration

is required to be given on each & every invoice pertaining to -

- **Import of Rough Diamonds**
- **Re-export of Rough Diamonds**
- **Local (Domestic) Sale or Purchase of Rough Diamonds, Cut & Polished Diamonds or Diamond Studded Jewellery**
- **Export of Cut & Polished Diamonds or Diamond Studded Jewellery**

KIMBERLEY PROCESS IMPLEMENTATION CHECKLIST

- Adoption of Policy & Procedures on Kimberley Process (KPCS) and System of Warranties (SOW) [as given in BPP Manual].
- Appointment of KP Compliance Officer.
- Identification of Employees for KPCS & SOW.
- Circulation of Training Kit to all concerned employees. Acknowledgement of Circulation to be kept.
- Giving training to concerned employees on KPCS & SOW. Awareness & Compliances. Training Documents to be maintained.
- Writing letter to auditor about KPCS & SOW Independent Reconciliation Report for the FY 2004-05.
- Maintaining a separate file for all Correspondences, Notifications pertaining to GJEPC/Other Designated Authorities.
- Conducting Internal Audit of KPCS & SOW Compliance on quarterly basis. Internal Audit can be done by any employee (but not by C.O.) or any other external person.

- End -