

Law on the Control of Export, Import, and Transit of Rough Diamonds

Law no 645 dated 24/11/2004

Effective following its publication in the Official Gazette on 2nd of December 2004

Chapter One: Definitions and General Provisions

Article 1: The present law includes the special rule related to the export, import and transit of rough diamonds across the Lebanese territories according to the provisions of the Kimberley Process Certification Scheme.

Article 2: The words included in this law mean:

1- "Ministry": means Ministry of Economy and Trade.

2- "Minister": means the Minister of Economy and Trade.

3- "Kimberley Process Certification Scheme": means an internationally agreed Certification scheme for rough diamonds that aims to put an end to conflict diamonds.

4- "Special Committee": means the Committee appointed by the Council of Ministers upon the proposal of the Minister of Economy and Trade to supervise the application of Kimberley Process Certification Scheme.

5- "Participant": means a state or a regional economic integration organization for which the Certification Scheme is effective.

6- "Diamonds": means a natural mineral consisting essentially of pure crystallized carbon in the isometric system, with a hardness on the Mohs scale of 10, a specific gravity of approximately 3.52 and a refractive index of 2.42.

7- "Rough Diamonds": means diamonds that are unworked or simply sawn, cleaved or bruted and fall under the Relevant Harmonized Commodity Description and Coding System 7102.10, 7102.21 and 7102.31.

8- "Conflict Diamonds": means rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments, as described in the UNGA Resolutions 55/56, 263/56, UNSC Resolution 1459, or in other future relevant Resolutions.

9- "Country of origin": means the country where a shipment of rough diamonds has been mined or extracted.

10- "Country of Provenance": means the last Participant from where a shipment of rough diamonds was exported, as recorded on the import documentations.

11- "Certificate": means a forgery resistant document with a particular format which identifies a shipment of rough diamonds as being in compliance with the requirement of the Certification Scheme.

12- "Parcel": means one or more diamonds that are packed together and that are

not individualized.

13- "Shipment": means one or more parcels that are physically imported or exported.

14- "Violator": The person having possession of rough diamonds in violation of the provisions of this law and of the Kimberley Process regulations.

Article 3: A Special Committee is established upon a decree adopted by the council of ministers recommended by the Minister of Economy and Trade, consisting of:

- Director General of the Ministry of Economy and Trade as president
- Representative of the Ministry of Industry.]
- Representative of the Higher Council of Customs.[as members
- Representative of the Ministry of Economy and Trade.]
- Representative of "Syndicat des Bijoutiers et des Joailliers du Liban".[.

The committee shall seek to:

1. Implement the provisions of Kimberley Process Certification Scheme in the most effective manner; in particular through the cooperation with the participants.
2. Exchange information with other participants concerning the trade of rough and conflict diamonds and cooperate with them in monitoring all related activities.
3. keep a database that contains all the decisions taken by the competent judicial authorities regarding this law.

The committee's Competences:

1. Determine and validate the application forms to obtain the certificate, its contents, duration and authentication as well as the way of making these applications.
2. Determine the documents that the person concerned shall join to the Certificate in every import, export, and transit operation.
3. Specify the registers to be kept with the importers and exporters of rough diamonds.
4. Determine the specifications required for parcels used in the import, export and transit of rough diamonds.
5. Publish any information deriving from applications for Certificates or gathered in the course of any inspection provided it would entail no prejudice to legitimate interests of third parties.
6. Publish statistics and reports in Lebanon regarding the Kimberly Process and inform the Participants and the Chair of the Kimberley Process about them.

Chapter two: The Minister's Competences

Article 4: For the purpose of implementing the present Law, the Minister shall be entitled to take the following measures:

1. Propose a decree adopted by the council of ministers to establish the Special Committee provided for in article three of this law.
2. Propose a decree adopted by the council of ministers to determine the fees that should be paid by the persons concerned in order to get the certification.
3. Appoint one or more coordinators to handle the application of the certificate issuance.
4. Propose a decree adopted by the council of ministers to determine the authorized ports of entry to the Lebanese territories.
5. Authorize the import and transit of rough diamonds based on the specifications set by the committee as mentioned in article three of this law.

Chapter three: The regulation of Import, Export and Transit of Rough Diamonds

Article 5: Any moral or natural person should get a prior approval to import rough diamond and should keep the Kimberly Process Certification Scheme for at least five years.

Article 6: The import of rough diamonds into Lebanon shall be prohibited if not meeting the following requirements:

- 1- Accompanied by a valid Kimberley Process Certificate.
- 2- Imported in a parcel properly wrapped and sealed in compliance with the regulations.

Article 7: The entry of rough diamonds accompanied by the Kimberly Process Certificate is prohibited if the parcels have been opened. In this case, the goods are returned to their source.

Article 8: The customs authorities shall make sure that the certificate that accompanies the goods is conform to the imported goods. Should the certificate be

proven as incorrect or the contents do not conform to the accompanied certificate of rough diamonds, they shall:

- 1- Confiscate the shipment and prepare a report of which an authenticated copy is delivered to the concerned party.
- 2- Notify the Special Committee which would report to the exporting party about the confiscated goods.

Article 9: The Special Committee, after checking the import of the rough diamonds, shall confirm the export to the authority that issues the Kimberly Process Certification Scheme.

Article 10: Exporting rough diamonds from Lebanon shall be prohibited if not meeting the following requirements:

- 1- Accompanied by a valid Kimberly Process Certificate issued by the Special Committee.
- 2- The wrapping of rough diamonds shall be in compliance with the regulations.

Article 11: The export certificate is delivered provided that:

- 1- The rough diamonds meant for export has been imported in compliance with the provisions of this law.
The entry to Lebanon of rough diamond imported before the entry
Into force of
this law must be in compliance with documents that can be easily
verified.
- 2-The forms and documents accompanying the shipment shall be correct.
- 3- Monetary purchase of rough diamonds shall be through banks.
- 4- The final destination of the rough diamonds shall be to a participant to the Kimberley Process.

Article 12: The Special Committee shall collect and maintain relevant import and export data in a database.

Article 13:

a) The Articles 5-6-7-8-9-10-11 and 12 shall not be applied to rough diamonds which enter the territory of Lebanon for the only purpose of transiting to another participant, provided that neither the original container of the rough diamonds that are being transported nor the original accompanying Kimberley Process Certificate, issued by a competent participant's committee, have been tampered with at the entry into and the exit from Lebanon. The transit purpose shall be clear from the information stated in the accompanying Kimberley Process Certificate.

b) The Customs Authorities shall confiscate the transit shipment of rough diamonds if not accompanied by a Kimberley Process Certificate, establish a confiscation report, and submit it to the Special Committee.

Chapter four: Dealing with confiscated Diamonds and documents

Article 14: The customs officers, upon confiscating the rough diamonds and related documents, shall explain to the violator the reasons of confiscation and the procedure to have them returned. The customs officers shall take necessary measures to keep them in a secure storage.

Article 15: The customs officers shall refer the confiscation report and the file to the Special Committee who refers it to the competent judicial authorities in order to take the necessary measures according to applicable laws.

Article 16: If a prosecution under this Law has been instituted against the violator and the rough diamonds or other related documents have been confiscated but not forfeited, the court may return them to the violator upon his request.

Article 17: If the violator has been acquitted, the court should order that the rough diamonds or other related documents be returned to him.

Article 18: If the violator has been convicted of an offence under the present Law, the court may, in addition to the punishment imposed according to this Law, order the forfeiture of the rough diamonds and the related documents.

Article 19: The Special Committee may confiscate the rough diamonds, means of transportation (except airplanes ,which kinds and sizes will be determined by a decree adopted by the council of ministers, ships overweighting 150 maritime tons) and other things used in the smuggling of rough diamonds.

Article 20: The violator or owner of the means of transportation shall be informed of the confiscation decision.

Any interested party may appeal to the court within 30 days from the date of his notification. In all cases, the appeal period shall expire after 90 days following the announcement of the court decision.

Chapter five: Sanctions

Article 21: Whoever imports or tries to import, exports or tries to export rough diamonds in violation of the provision of this Law shall be imprisoned for a term not exceeding 6 months and/or subject to a fine not exceeding 30% (thirty percent) of the value of the rough diamonds.

Whoever hides or furnishes any false information concerning any documents to obtain a Certificate shall be punished with one or both of the mentioned above.

Article 22: Whoever violates this Law and its regulations related thereto shall be imprisoned for a period not exceeding 1 month and/or subject to a fine not exceeding 15% (fifteen percent) of rough diamonds' value.

Article 23: The following laws are applied; the Criminal Law, the Customs' Law and the laws and regulations as applied in the Ministry of Economy and Trade shall remain effective as well as those which do not contradict the provisions of this law.

Chapter six: Customs Officers' special competence

Article 24: In addition to their effective legal competences, the customs officers shall:

1. Have access to all documents related to the import/export of rough diamonds.
2. Inspect any place or conveyance, other than a dwelling- place, to open any parcel or container where the officer has reasons to believe that there are rough diamonds or any documents to which this Law applies.
3. Examine rough diamonds or any other documents related to them, take measurements and conduct tests or analyses that do not affect their value.
4. Register any violations to the present Law, and withhold any conveyance and whatever means used in the operation of smuggling rough diamonds in accordance with the provisions of article 19 of this law.

Chapter seven: Final Provisions

Article 25: The provisions of the present Law shall be determined when necessary through decrees taken by the Council of Ministers upon proposal of the Minister of Economy and Trade and the Minister of Finance.

Article 26: The present Law shall be effective upon its publication in the Official Gazette.