# The Kimberley Process Certification Scheme one year after: state of affairs in the European Union

Fatal Transactions

F. Weyzig
September 2004

somo

NiZA

Netherlands institute for Southern Africa

**SOMO (Centre for research on Multinational Corporations)**
Keizersgracht 132
1015 CW Amsterdam
Tel: +31 (0)20 639 12 91
Fax: +31 (0)20 639 13 21
Email: info@SOMO.nl
www.SOMO.nl

**Netherlands institute for Southern Africa (NiZA)**
PO Box 10707
1001 ES Amsterdam
Contact person: Kirsten Hund, Coordinator Fatal Transactions
tel: 0031 20 5206210
email:Ft@niza.nl
www.niza.nl/fataltransactions

Fatal Transactions

*Niza is a member of the international Fatal Transactions campaign. Fatal Transactions receives financial assistance of the European Community.*

# Table of contents

## Appendices

# 1 Introduction

This report seeks to examine the effectiveness of the Kimberley Process Certification Scheme (KPCS) and the System of Warranties for rough diamonds in the European Union (EU), one year after the effective starting date of the KPCS. It examines how the European regulations for the KPCS and System of Warranties the are being implemented. To what extent are governments and industry organizations living up to their promise to stop conflict diamonds from entering the European market? What flaws remain and what measures could be taken to improve the system in the EU?

We have come a long way since the issue of conflict diamonds first came up. Government officials from more than 30 countries that produce, process and import diamonds came together along with representatives from the diamond industries and NGOs for the first time in May 2000 in Kimberley, South Africa. Feeling the pressure from international campaigns and rising awareness of the links between diamonds and war, they started a discussion on developing a system, which could verify the origins of rough diamonds in order to stop the trade in 'conflict diamonds'. The ongoing dialogue came to be known as the 'Kimberley Process'.

A preliminary agreement was endorsed on 5 July 2001, which aimed to get every country involved in the mining of diamonds or the trade in diamonds to agree on issuing internationally recognised certificates, which confirm the legitimate origin of the diamonds.

The capacity and the will of European diamond importing countries to implement an effective control system has been a concern and in 2001, the Netherlands institute for Southern Africa (NiZA), as a member of the Fatal Transactions campaign,[1] commissioned SOMO (Centre for Research on Multinational Corporations) to examine policy and practice in three EU member states: Belgium, the Netherlands and the United Kingdom.[2]

SOMO investigated to what extent these countries were willing and able to use a certification system to check the origin of rough diamond imports. The research was based on interviews with government officials about the border control practices used for diamond imports and on trade data analysis.

The 2001 report concluded, among other things, that the inspection and monitoring systems for diamond imports of the three countries were very different. The adaptation of rules and regulations, as well as knowledge about the process, political will and resources available, varied considerably.

[1] Fatal Transactions is an international campaign that works for an effective system of monitoring the raw materials trade from conflict areas. Fatal Transactions calls upon governments, companies and consumers to ensure that trade in any kind of raw materials does not contribute to the continuation of wars in Africa. Members of the campaign are: Novib/Oxfam Netherlands (The Netherlands), Medio International (Germany), Intermón/Oxfam (Spain), 11.11.11 (Belgium) and Broederlijk delen (Belgium). Fatal Transactions receives financial assistance of the European Community. www.niza.nl/fataltransactions

[2] Somo/NiZA (August 2001). *Conflict Diamonds: crossing European Borders? A case study of Belgium, The United Kingdom and the Netherlands*.

The Netherlands and the UK were less transparent about measures taken. Given the large volumes of rough diamond imports into the UK, its border control system was insufficient. Although a very small player in the rough diamond trade, Dutch custom controls fell short and capacity to monitor was non-existent. Belgium, the largest importer, was way ahead of the other two countries but faced some serious irregularities in trade statistics.

In order to enlarge transparency and detect flaws and irregularities in trade flows at an earlier stage, the 2001 report recommended the installation of an international database with standardised trade statistics and information on diamond reserves. An independent monitoring system should verify this data, and have the capacity to investigate possible anomalies.

Because of large differences between various EU countries, and the lack of trade control between member states, the report suggested to limit diamond entry points into the EU. That way, the necessary expertise and inspection instruments would be efficiently concentrated. Furthermore, the report advised the international community to allocate additional resources to assist developing countries exporting diamonds. These funds should be used to help developing countries install the systems for issuing certificates as well as the correct monitoring procedures.

A lot has happened since the 2001 report was published. On 5 November 2002, fifty-two countries adopted the Kimberley Process Certification Scheme (KPCS), under which all participating countries must comply with certification requirements for rough diamond exports. In addition, diamond industry organizations adopted a System of Warranties to regulate domestic trade, complementing the certifying of exports under the KPCS. The KPCS was only fully implemented on 1 September 2003. From that moment on, KPCS member countries were not allowed to import rough diamonds without a KP certificate.

This report seeks to examine the progress made in the struggle against conflict diamonds one year after full implementation of the KPCS. Are the KPCS and the System of Warranties being implemented in the EU the way they should? What has improved since the 2001 report? Are there still weaknesses in the system, and what should be done to improve it?

The report is organised as follows.

**Chapter 1:** Describes the background of the regulation of the trade in rough diamonds, from the international outrage due to the atrocities in the diamond-fuelled wars in Angola and Sierra Leone, which led to UN sanctions against diamonds from these countries, and how this eventually resulted in the world-wide KPCS. It explains the KPCS and System of Warranties in full detail.

**Chapter 2:** Examines in more detail the effects of export valuation, one of the consequences of the implementation of the Kimberley Process. Understanding this system helps us to make sense of the export statistics used in the following chapters.

**Chapter 3:** Focuses on Belgium, the centre of the world diamond industry. Through detailed descriptions and data analyses it answers the questions as to how, in practice, the Belgian government has implemented the KPCS, and to what extent the industry has lived up to its promises to implement a chain of warranties.

**Chapter 4:** Examines the implementation of the KPCS and industry self-regulation in the United Kingdom, which is home to the worlds leading diamond corporation De Beers.

**Chapter 5:** Focuses on The Netherlands, a relative small country in the diamond trade, but still interesting because of its reputation as a diamond country. How does the diamond industry implement the system in this country without an entry point of it's own?

**Chapter 6:** Includes a broad overview of the Kimberley Process trade statistics in the EU. The European Commission's statistics disclosure has greatly increased transparency, and has helped increase understanding of diamond trade flows to and from the EU in general, and the UK and Belgium in particular.

**Chapter 7:** Examines the effectiveness of the import and export regime for the EU as a whole. This chapter presents the different and contradicting opinions encountered by the researchers among the various actors in the field.

**Chapter 8:** Outlines the remaining issues the EU faces regarding the implementation of the KP. What about the technical needs of diamond producing developing countries, and how is correct implementation of the system ensured for the new member states?

**Chapter 9:** Presents general conclusions and recommendations, which address the European Union, the governments of the UK, Belgium and the Netherlands, and the diamond industry. The recommendations are aimed at improving the effectiveness of the Kimberley Process and System of Warranties to help bring an end to trade in conflict diamonds.

# 2 Background: the regulation of trade in rough diamonds

## 2.1 Conflict diamonds

The Kimberley Process Certification Scheme (KPCS) is a system to prevent so-called conflict diamonds from entering international diamond markets. 'Conflict diamonds' are diamonds that fuel and contribute to civil wars, conflicts, terrorism and human right abuses.

The United Nations (UN) more narrowly defined conflict diamonds as *'rough diamonds which are used by rebel movements to finance their military activities, including attempts to undermine or overthrow legitimate governments'*.[3]

In the past, proceeds from the sale of diamonds have provided substantial financing for rebel groups committing brutal crimes in countries such as Angola, Sierra Leone, and the Democratic Republic of Congo (DRC). Diamonds mined in rebel-held areas were easily smuggled out and quickly found their way into the mainstream diamond trade. Occasionally, neighbouring countries got involved in the conflict diamond trade, which is a very lucrative business. For example, Liberia has notoriously helped Sierra Leone's rebels market their diamonds.

The civil wars in Angola and Sierra Leone have now ended, but the KPCS remains important to prevent any rebel and terrorist groups from financing themselves through illegal diamond mining and diamond trade. In addition, it serves to prevent illegal mining and helps to enlarge official government reserves.

Measures to curb conflict diamonds apply to rough diamonds only.
None of the African countries where conflict diamonds originate have facilities to fully process rough diamonds into polished diamonds.
Thus, if the rough diamond trade were completely free of conflict diamonds, conflict diamonds effectively would be prevented from entering international diamond markets. Rough diamonds are those diamonds that fall under three categories of the Harmonised System, an internationally recognized system for goods classification run by the World Customs Organization (WCO).[4] This system is used in customs declarations to determine duties and for statistical purposes.

The three categories of rough diamonds are:
7102.10 Unsorted diamonds, simply sawn, cleaved or bruted
7102.21 Industrial diamonds, unworked or simply sawn
7102.31 Non-industrial diamonds, unworked or simply sawn, cleaved or bruted

[3] UN Resolution by the General Assembly, A/Res/55/56 (2000).
[4] See for more information http://www.wcoomd.org.

## 2.2 UN Sanctions

The United Nations (UN), under NGO pressure, tried to address the problem of conflict diamonds through a series of resolutions.[5] The UN Security Council, in 1998, adopted a resolution prohibiting all countries from directly or indirectly importing diamonds from Angola without a certificate of origin issued by the government of Angola.[6] In July 2000 it adopted a resolution that imposed similar certification requirements on imports of diamonds from Sierra Leone.[7] The UN General Assembly then called for a workable worldwide system of certification for rough diamonds in December of the same year.[8] In 2001, the UN Security Council stipulated additional restrictions on trade in rough diamonds, which included a complete ban on diamond exports from Liberia.[9] This country was instrumental in the sale of diamonds from rebel areas in neighbouring Sierra Leone. The UN Security Council recently decided to maintain the sanctions on diamond exports from Liberia, as the conditions for lifting the sanctions were not yet fully met.[10] The UN sanctions against Liberia are therefore still in place whereas the sanctions against Angola and Sierra Leone were incorporated into the Kimberley Process Certification Scheme.

## 2.3 The Kimberly Process

The measures adopted by the UN were not sufficient, however, in stopping the trade in conflict diamonds. Conflict diamonds are usually not identifiable through physical inspection and are easily smuggled to countries that are not involved in conflict so establishing a global system of export certification and import verification was necessary.
The countries that produce, process, and import or export diamonds started to dialogue with diamond businesses and Non-Governmental Organizations (NGOs) to discuss the various issues surrounding conflict diamonds.

The first set of discussions aimed at developing a system to verify the origins of rough diamonds, took place in Kimberley, South Africa in May 2000. Thus, the continuing dialogue around conflict diamonds is now known as the Kimberley Process (KP).

Later that year the World Diamond Council (WDC) was created to represent the entire diamond industry at the KP. The participants in the KP reached a preliminary agreement on 5 July 2001 whereby every country involved in the mining or trade of diamonds must issue internationally recognized diamond certificates for diamonds produced by, or procured from, legitimate sources. The KP also agreed on the basic elements of the certification system.

[5] For more information on the UN measures and their implementation, see: Somo/NiZA (2001). *Conflict Diamonds: Crossing European Borders?*
[6] S/Res/1173 (1998).
[7] S/Res/1295 (2000).
[8] A/Res/55/56 (2000).
[9] S/Res/1336 (2001).
[10] http://www0.un.org/apps/news/story.asp?NewsID=11017&Cr=liberia&Cr1=.

## 2.4 The Kimberley Process Certification Scheme

Fifty-two countries adopted the Kimberley Process Certification Scheme (KPCS) on 5 November 2002(see full text in Appendix 2). Every country participating in the consultations automatically became a participant in the KPCS. Officially the implementation of the KPCS started on 1 January 2003. (To avoid confusion, it should be noted that 'participants' always refers to countries. Furthermore, 'KP' is sometimes used to refer to the certification scheme rather than the consultation process, for example in 'KP certificate' or 'KP member' of a diamond bourse.)

Under the KPCS all participants must comply with certification requirements for rough diamond exports. These are similar to the requirements for Angola and Sierra Leone previously imposed by the UN. The main features of the KPCS are as follows:
Government officials from the exporting country must seal all rough diamond exports in tamperproof security containers.
Each container must have a forgery resistant KP certificate, issued by the government, that identifies the shipment. Note that a shipment may consist of several parcels. The certificate has a unique export registration number and mentions characteristics like commodity classification of the diamonds, total carat weight (1 carat = 0,2 gram), total export value, country of provenance (the exporting country) and country of origin (the country where the diamonds were produced).
A KP certificate will only be issued if the exporting company can prove the diamonds originate from legitimate sources namely, certified imports under the KPCS, legally mined diamonds, or pre-2003 stocks of diamonds that do not come from suspect sources.
Only imports of rough diamonds meeting the above requirements are allowed.
Participants are prohibited from trading in rough diamonds with non-participants.
The importing country must confirm the arrival of a shipment to reduce the risk of fraud.

KP guidelines outline additional specifications to address technical problems. For example, they describe in more detail which diamonds are covered by the KPCS. Originally, partly worked diamonds with a few facets were outside of the KPCS because they could be classified as non-rough. However this lead to some African countries setting up simple polishing facilities in an attempt to evade export requirements under the KPCS. A KP guideline was then added to cover these diamonds by specifying that only those polished diamonds that do not require further processing remain outside the scheme. Another KP guideline specifies that the KPCS does not apply to diamond powder (diamonds with a longest side of less than 1 mm). The coverage of the KPCS does therefore not fully coincide with the HS codes used for custom declarations.[11] The KPCS also makes voluntary recommendations, such as the announcement of shipments by the exporting country and the recording of all details of shipments in a computerized database.[12]

The KPCS excludes non-participants from trade in rough diamonds and could therefore be considered a breach of World Trade Organization (WTO) rules. This potential

[11] Interview with M. Van Bockstael, 26 May 2004.
[12] See KPCS Annex II, included in Appendix 2 to this report.

problem was solved through a WTO waiver granted in 2002. However, the waiver only validates stopping the trade in conflict diamonds, not stopping the illegal diamond trade in general. This means that the WTO would not allow the KPCS to be implemented solely to avoid tax evasion through diamond trafficking, for example.

## 2.5 Implementation and monitoring of the KPCS

To implement the system, participants have to pass the necessary laws or regulations. In addition, they must collect and exchange statistical data on the trade and production of rough diamonds. For the EU, only aggregate data at the EU level is provided to the KP, because the EU as a whole is a single participant. Diamond trade statistics are collected from participants and analysed by the KP Working Group on Statistics. Analysis of trade data can reveal discrepancies between the imports and exports of a country and sudden diversion of trade flows. It can be a powerful tool to identify potential violations of the KPCS. For example, the data revealed the exports of Congo Brazzaville, which has no substantial production of its own, are not matched by imports under the KPCS.

Participants that have complaints or concerns about how other countries implement the scheme, or not, can request a review mission. The Central African Republic received a review mission in June 2003 and was found to be in compliance with the KPCS. If the analysis of trade statistics raises doubt about the implementation of the KPCS by a certain country, a review mission may be sent to verify the implementation of the system.

This recently happened to Congo Brazzaville, which exported 5.2 million carats in 2003 but did not report any substantial production or imports of rough diamonds. A review mission found that the country was not in compliance.[13] In its report, the review mission stated that it found Congo was exporting diamonds at a rate approximately 100 times greater than its estimated production. Moreover, it was found that the authorities were unable to account for the massive discrepancy between the volume of exports on the one hand and of domestic production and imports under the KPCS on the other.[14] As a consequence, on 9 July 2004 Congo Brazzaville was expelled from the Kimberley Process.

A grace period for the KPCS was initially agreed until the end of January 2003, during which time no sanctions were to be imposed. This period was then extended to the end of April 2003. By this time a Participation Committee was established at the KP plenary meeting in Johannesburg. This committee was set up to screen the compliance of participants and applicants with the KPCS. When the KPCS was initially established every country participating in the KP meetings became automatic participants in the scheme. However, implementation in certain countries was seriously flawed and the certification scheme's credibility was damaged. The Participation Committee decided to compile a list of countries that had passed all the necessary legislation. The list was published on 31 July 2003 but did not become official, on 1 September 2003. Before the beginning of September diamonds from non-participants and illegitimate sources

[13] Financial Times (10-11 July 2004). *Congo is ejected from Kimberley Process*, p9.
[14] World Diamond Council press release (9 July 2004), see http://www.kimberleyprocess.com:8080/site/www_docs/press1/wdcrelaseonroc.pdf.

could still find their way to regular diamond markets through participants or applicants that were not in compliance or had not yet enforced the KPCS. Hence, the KPCS was only fully implemented on 1 September 2003.[15] The current list of participants (as of 9 July 2004) can be found in Appendix 3.

## 2.6 Recent KPCS developments

At the KP plenary meeting on 29-31 October 2003 in Sun City, South Africa, the participants agreed on a voluntary peer review system, which falls under the auspices of the KP Working Group on Monitoring. In 2004 the European Commission has been the chair of this group. Under the peer review system, a volunteer team of government officials from other participants, industry and NGOs travel to the country in question for a week to examine the implementation of the KPCS. The peer review visit should not be confused with review missions, which are requested by other participants due to credible indications of non-compliance. The terms of reference for review missions and review visits, however, are the same. The European Commission and NGO observers to the KP would have preferred a regular monitoring system instead of a peer-review system dependent on the volunteering of participants.

Countries that have already hosted a review visit include Israel, the United Arab Emirates (UAE), Mauritius, and Botswana. A regional review visit to Lesotho, South Africa and Zimbabwe is scheduled for September 2004. The EU is also expected to receive a peer-review visit in the autumn of 2004. Nearly all participants have now indicated their willingness to receive a review visit by 2006. The results of the first peer-reviews remained internal, although the intention is to make them publicly available.

Other issues brought up at Sun City included deficiencies in submitted data and the failure of some participants to provide any statistical data, which meant a complete and consistent database of statistics was not compiled by the Sun City meeting. Statistical reporting is a condition for being part of the KPCS and the failure to meet deadlines is dealt with by the Participation Committee.[16]

## 2.7 The System of Warranties

Rough diamonds are also traded between companies within a country's borders. In the diamond business, it is a common practice to split and mix rough diamonds from various sources.  It is this practice, which is at the very heart of the rough diamond trade. It is through splitting and mixing that rough diamonds are divided into groups with similar carat weight, clarity and colour and then processed by appropriate cutters and polishers. The separation of rough diamonds into homogeneous groups for processing is the most efficient and commercially viable business practice. [17]

[15] M. Van Bockstael (2004). *How the Kimberley Process changed the trade in African diamonds.* Document prepared for the Seminar 'Demystifying African Diamonds', Arlington, VA, January 12, 2004.
[16] Final communiqué, KP plenary meeting Sun City, South Africa, 29-31 October 2003.
[17] Communication with F. Coosemans, 27 July 2004.

Tracing the entire supply chain of a set of diamonds, in order to prove that an export shipment originates from a legitimate source, therefore becomes very difficult. To address this problem, and to strengthen the credibility of the KP, the diamond industry established a 'System of Warranties'.

This voluntary system was adopted by World Federation of Diamond Bourses (WFDB) and the International Diamond Manufacturers Association (IDMA) at the World Diamond Congress in London on 29 October 2002. The full text of the declaration has been attached as Appendix 4. This system of industry self-regulation complements the KPCS. The KPCS applies only to international trade between participants, whilst the System of Warranties applies to both international and domestic trade.

Under the System of Warranties, the following statement, which guarantees the diamonds have been passed on from legitimate sources and are ultimately conflict-free, must be included 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.'*

Each warranty issued must be supported by proof that the diamonds were obtained from legitimate sources, which means all warranties must match up with warranties received for purchases, KP certificates or (in the case of mining companies) proof that diamonds were mined from legitimate sources. Stocks of diamonds from before 2003 can also be a legitimate source.

In the System of Warranties a company is not obliged to prove the ultimate origin of each diamond in order to be able to guarantee that the sold diamonds are conflict free. The System of Warranties ensures that the conflict-free origin of diamonds is 'passed on' in every transaction. Auditors match each company's records of diamonds bought or mined, with records of diamonds sold, and any stock changes.[18] Companies trading in rough diamonds issue and receive warranties knowing they will be audited.

For example, a government-approved mine issues the first warranty (statement above) in the warranty chain. This is included on the sales invoice to the exporting company. The exporter then sells the diamonds to a trader who will only buy the goods if a warranty is provided. This trader, who has bought diamonds from various sources—presumably all with warranties—will then mix the diamonds and sell to other traders, who also will not buy diamonds without a warranty.

The System of Warranties was recommended by the WDC for the trade in both rough and polished diamonds. However, Global Witness's recent survey revealed many US diamond retailers were not implementing the System of Warranties as they knew little

[18] If diamonds are processed (e.g. polished) so that the weight and/or classification of the diamonds changes, this has to be taken into account as well in order to match the records of a company.

or nothing about it, suggesting the system is in practice largely confined to the trade in rough diamonds.[19]
Companies are obliged to maintain records of warranty flows including those which come in and those which go out, all of which are included in the company's annual audit.

In addition, all industry organizations and their members agreed on the following principles of self-regulation:
Trade only with companies that include warranty declarations on their invoices;
Do not buy diamonds from suspect sources or unknown suppliers, or which originate in countries that have not implemented the KPCS;
Do 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;
Do not buy diamonds in or from any region that is subject to a warning 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 KPCS;
Do not knowingly buy or sell or assist others to buy or sell conflict diamonds;
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.[20]

For the implementation of the System of Warranties, the most relevant industry organizations are the World Federation of Diamond Bourses (WFDB) and the 23 bourses affiliated with it. Nine of these bourses are located in Europe: four in Belgium, and one each in the UK, The Netherlands, Germany, Italy and Austria. Compliance with the System of Warranties is overseen by these industry organizations. Failure to comply will result in expulsion from these organizations, which would harm the reputation of the company involved.

## 2.8 The regulation for the KPCS and System of Warranties in the EU

The UN sanctions preceding the KPCS were implemented by national legislation. Initially, individual European Union (EU) member states were involved in the Kimberley Process. However, the European Commission (the Commission) argued that international trade regulation in rough diamonds would be dealt with at the level of the EU. Some member states protested but eventually the Commission assumed responsibility for the KP, and the EU became a single participant.

In the case of the EU, the KPCS applies to all territories covered by the Treaty Establishing the European Community (EC Treaty). This includes French overseas departments, like French Guyana. Hence, trade in rough diamonds between French Guyana and other parts of the EU is allowed and does not require a KP certificate,

[19] Global Witness (2004). Broken vows: Exposing the "loupe" holes in the diamond industry's efforts to prevent the trade in conflict diamonds. See http://www.globalwitness.org.
[20] WDC (2003). The Essential Guide to Implementing The Kimberley Process, p2-3.

because it takes place within a single KPCS participant. The overseas territories of the UK (e.g. Bermuda, Cayman Islands, Falkland Islands, Gibraltar, St. Helena) and of The Netherlands (Netherlands Antilles) remain outside the KPCS. Imports of rough diamonds from these territories into the EU are therefore not allowed.

A Common Position, proposed by the Belgian EU-presidency under the Common Foreign and Security Policy, was adopted by the EU member states on 26 October 2001. It was followed a year later by the adoption of a Council Regulation, tabled by the European Commission.[21] Member states' commitment to address the conflict diamond issue and implement the necessary measures is generally considered to be sufficient.[22]

The legislation to implement the KPCS is provided by Council Regulation (EC) No. 2368/2002 of 20 December 2002, which has been attached (excluding annexes) as Appendix 5. This European Community Regulation, unlike that of other KPCS participants, also addresses industry self-regulation. Currently, the EU has the strictest legal framework on trade in rough diamonds of all KPCS participants and some argue that industry self-regulation, is not totally voluntary due to the Commission's supervision.

The purpose of making the system so strict was to create a competitive advantage by enhancing the reputation of EU diamond traders. And a strong warranty system would mean traders need not disclose detailed information about their business because of the audit process and the need for closer investigations by the Commission would be eliminated.

As it turns out the strong system of EU regulations, which was expected to improve industry coffers, have had a negative effect for diamond traders, although the regulations in question involve the import and export regimes rather than the warranty systems.[23]

The main features of the Regulation can be summarized as follows.

Rough diamonds may only enter and leave the EU through countries with an established Community Authority, commonly called 'entry points', approved by the Commission. Until recently, there were two such entry points, one in Antwerp and one in London. A German entry point was approved on 18 August 2004.[24] Before 2003, rough diamonds could be imported directly into all member countries, but some did not have the capacity for meaningful inspections.[25] Because of the internal market, the regulation does not impose any restrictions on intra-EU trade.

[21] Communication with F. Coosemans, 27 July 2004.
[22] Interview with W. Keizer, 8 June 2004; communication with I. Verdeyen, 1 July 2004.
[23] A major negative effect for Belgian traders are decreasing margins on diamond trade because imports are increasingly going through intermediate countries (see page 14). For Dutch tool making companies, the burden of export inspections is relatively high because shipments are sometimes very small (see page 43).
[24] Approved by Commission regulation (EC) No. 1474/2004 of 18 August 2004. This entry point was not covered by the research, because interviews took place before this date.
[25] See Fatal Transactions (2001). *Conflict Diamonds: Crossing European Borders?*

All imports must meet the KPCS criteria. Imports have to pass through an entry point for inspection. Countries without a Community Authority must grant customs transit to this effect. The Community Authorities verifies all KP certificates and a physical inspection is carried out either of all shipments or on the basis of a risk analysis. Monthly reports of all submitted certificates must be provided to the Commission and the certificates are stored.

Like imports, all exports must pass through entry points and are sent according to the KPCS criteria. The exporter applies for a KP export certificate. To obtain a certificate, the exporter either has to be a member of a registered diamond bourse as explained below, or provide conclusive evidence that the diamonds were imported in agreement with the import regime described above. Stocks of rough diamonds present before 2003 could be certified by member states. The physical inspection procedure for exports is similar to that for imports. Monthly reports of all issued certificates are provided to the Commission and the certificates are stored by the Community Authorities.

If a Community Authority finds that an import or export shipment fails to fulfil the conditions laid down in the regulation, it has to investigate whether this was intentional. If so, the shipment will be detained. Any such irregularities have to be reported to the Commission. Sanctions for infringement of the regulation will be determined by member states.

Diamond bourses (industry organizations) can apply for listing in Annex V of the Regulation if they have regulations in place ensuring their members comply with all aspects of the system of warranties as described in the previous section. In addition, all bourse members must instruct an independent auditor to certify that the records of warranties received and issued are correct. The bourses are required to expel any member that has been found to seriously violate these regulations and report the implementation of the system to the Community Authority.[26] If a bourse fails to implement the system effectively, the Commission could remove it from the list forcing members of the bourse to use the conclusive evidence procedure for exports. At present, the four bourses in Antwerp and the bourse in London have been listed.

Although the System of Warranties is in principle voluntary, under this Regulation it becomes an obligation for all members of the diamond bourses listed in Annex V and for all companies, whether bourse members or not, that wish to export rough diamonds.

The Regulation also establishes an EU management Committee composed of member states and chaired by the Commission. This committee meets four times a year to provide guidance and input to the Commission and to keep the member states informed. As well, it prepares the position of the European Union for the international Kimberley Process.

The Regulation came into affect on 31 December 2002, but the application of the import and export regime was initially suspended until the adoption of another Council Regulation. During this period provisional KP certificates were issued for exports to

[26] Or directly to the Commission, in the case of a bourse in a country without a Community Authority.

outside the EU. Council Regulation (EC) No. 254/2003 of 11 February 2003 fixed the starting date of the application of the import and export regime on 1 February 2003. Through Commission Regulation (EC) No. 257, also of 11 February 2003, the two Community Authorities were approved and an initial list of participants was adopted. Up to July 2004, there have been ten subsequent changes in the list of participants, the most drastic change being the removal of 20 countries at the end of the tolerance period on 1 September 2003. The four bourses of Antwerp were admitted for listing on Annex V on 30 April 2003, and the London bourse was admitted some two months later on 7 July. For the precise criteria for admission, which the bourses formally fulfilled when admitted by the Commission, see Council Regulation (EC) No. 2368/2002 in Appendix 5. For an overview of all relevant Regulations of the Council and the Commission, see Appendix 6.

# 3 The effects of export valuation[27]

The valuation of rough diamond exports is an important issue in the KPCS. It will be explained here because it will prove helpful when interpreting trade statistics in the following chapters. For example, trade statistics collected by the KP Working Group on Statistics show sudden export decreases to certain countries coinciding with sudden export increases to others. These are often caused by the different approaches to the valuation of exports.

In principle trade statistics on carat weight would be sufficient to reveal anomalies and diversion of trade flows, but the declared value must also be included on KP certificates. Valuation is the responsibility of individual participants. Many producing countries charge export taxes, which has occasionally in the companies heavily under valuing export shipments.

Some countries, including the US, Switzerland and the United Arab Emirates, allow imports with a declared value, which is considerably lower than the market value. Other countries, notably Belgium, require the declared value be consistent with fair market value, avoiding large discrepancies. The Diamond Office in Antwerp estimates the fair market value of all shipments, verifying the declared value of imports is correct.[28] The Diamond High Council (HRD) estimates that if exports are rightly valued, their value should be 95-98% of the market value in Antwerp. At the Government Diamond Office (GDO) in the UK, some of the shipments are inspected and usually a 15% margin is accepted.[29]

Since the end of the transition period in September 2003 some exporting countries have shown marked improvements in valuation. The declared value on KP certificates from Congo Brazzaville and DRC are now approaching fair market value, whereas previously their exports were undervalued by 50% in the case of DRC and 80% in the case of Congo Brazzaville.[30] However, Congo Brazzaville has now been expelled from the KPCS. The UK reports that the price of imports into the EU from smaller or lower quality producers has gradually increased since the start of the KPCS in January 2003, due mainly to help with valuation from independent advisors contracted by the governments of these producer countries. A preliminary analysis of the available KP statistics on rough diamond trade also reveals an increase of the value mentioned on KP certificates, which indicates that undervaluing diamonds is diminishing. An indirect effect of the KPCS is therefore that the tax earnings on diamond exports of some countries are rising.

Some countries however, continue to export undervalued shipments.

[27] This section is based on interviews with M. Van Bockstael, A. Waem and L. Paesschiersens, 26 May 2004; and information from C. Wright, 15 July 2004.
[28] See page 16 for a description of the inspections in Belgium.
[29] See page 33 for a description of the inspections in the UK.
[30] M. Van Bockstael (2004). *How the Kimberley Process changed the trade in African diamonds.* Document prepared for the Seminar ‘Demystifying African Diamonds’, Arlington, VA, January 12, 2004.

To evade tax, some companies are now, increasingly, exporting through countries, which allow under valuation. For example, a shipment worth $5 million may be exported to Switzerland with a declared value of only $500.000, and subsequently re-exported to Belgium with the correct declared value.

Changes in trade flows do not, necessarily, indicate conflict diamonds find their way through countries with weak KPCS implementation, but rather it could be a sign of tax evasion. Tax evasion does not cause companies to move to other countries, but it negatively impacts margins for diamond traders in countries with strict taxes, such as Belgium. To address this problem, the WDC proposed a dual system whereby the first importing country (the country which imports the rough diamonds from the country of origin) applies strict norms for valuation. The HRD supported this position, but it was resisted by the US and the European Commission and did not pass.

# 4 Belgium

## 4.1 Introduction

Antwerp is the centre of the world's diamond industry. It is estimated that 80-90% of all rough diamonds and more than half of all other types pass through Antwerp.[31] The leading position of the city in the diamond trade and industry has a history going back several centuries. Antwerp has developed a special infrastructure for the industry, which is concentrated in a relatively small, high security area. There are four diamond bourses, 1,500 diamond companies, specialised banks, security and transport companies, and special diamond education centres among others, which ensure Antwerp's prominence in the industry. Rough diamonds are imported to Antwerp from all over the world and traded, sorted and/or mixed with diamonds from other origins.[32] Most of the rough diamonds however, are not polished in Antwerp, but are re-exported to other countries for further processing, especially to India. Belgium has been a strong supporter of the Kimberley Process in large part due to the sector's importance in the Belgium economy.[33]

The Ministry of Foreign Affairs represents the country's position on the KP in the EU and internationally and is relatively satisfied with the results of the KP to date. The ministry has also stressed that the KPCS was agreed and implemented in a relatively short time span. Further more improvements and consolidation of the system may be possible.[34]

The implementation of the KPCS is a responsibility of the Ministry of Economic Affairs (officially called the Federal Public Service for Economy, SMEs, Self-employed and Energy). This Ministry is the Belgian Community Authority. This chapter deals first with the implementation of the import and export regime under the KPCS in Belgium. After that, it addresses the implementation of the system of industry self-regulation.

## 4.2 Import and export inspections[35]

All traders in rough as well as other categories of diamonds established in Belgium must be registered at the Ministry of Economic Affairs. Diamond traders from other EU countries that import or export diamonds through Belgium must also be registered as official diamond traders, entitled to practice, in their country. Currently, around 2.200 diamond companies are registered at the Belgium Ministry of Economic Affairs. Registration may be suspended during legal investigations and cancelled as a result of legal convictions. Any unregistered trader that engages in the diamond trade is to be

[31] http://www.hrd.be/antwerpdiamonds/antw_diamond_district/antw_diamond_market.aspx; interview with M. Van Bockstael, 26 May 2004.
[32] http://www.hrd.be/antwerpdiamonds/antw_diamond_district/index.aspx.
[33] Communication with I. Verdeyen, 1 July 2004.
[34] Communication with I. Verdeyen, 1 July 2004.
[35] This section is largely based on interviews with A. Waem and L. Paesschiersens, 26 May 2004, and communication with F. Coosemans, June 2004.

fined. These legal regulations are all included in a Royal Decree of 30 April 2004, published on 13 May 2004. [36] The full text of this Decree is attached as Appendix 7.

A license was required for all diamond shipments to and from countries outside the EU, even before the KPCS was established. The KPCS added inspections, carried out at the Diamond Office, which is located inside the building of the Diamond High Council (HRD), to this previous system. The HRD is an industry organization representing the Antwerp diamond sector and offering a range of services. In addition to the HRD staff, customs officials and three Ministry of Economic Affairs employees, 17 experts who inspect the import and export shipments of diamonds, work from the Diamond Office. The experts are sworn and have passed theoretical and practical examinations. An expert, who is chosen at random, physically inspects each shipment, including both rough and polished diamonds.

In the case of rough diamonds, the expert verifies the following aspects.[37]
The registration number on the parcel(s), which must be the same as the number on the import or export certificate.
The sealing of the container.
The classification of the diamonds, according to the Harmonized System.
The total carat weight of the shipment.
The value per carat.

First, the value per carat is estimated on the basis of the expected sales value of the finished product. The costs of additional processing and the traders' and retailers' margins are discounted from this first estimate. After the value per carat has been estimated, it is verified with the declared value. Only small discrepancies are allowed. A fixed percentage limit could not be stated, because this depends on the quality of the goods and the size of the shipment. The total value of the shipment is calculated by multiplying the weight of the shipment in carat by the value per carat.

All physical inspections are recorded on video. If required, Ministry staff can request additional inspections. In practice, a second opinion is usually called when there are large deviations in declared value. The experts must provide the Ministry written reports on all irregularities and deviations. If deviations have consequences for customs declarations, these issues are also reported to customs officials, which may start a legal investigation.[38]

In addition to the physical inspections, the rough diamonds KP certificate must be verified and customs cleared. The order of this procedure goes as follows:
Verification of the KP certificate,
Physical inspection of the shipment (see above),
Customs clearance.

---

[36] Le Moniteur Belge (May 13, 2004). *Arrêté royal portant des mesures relatives à la surveillance du secteur du diamant.*
[37] See also the Royal Decree of 30 April 2004, Appendix 7.
[38] The inspection procedure is also included in the Royal Decree of 30 April 2004. See appendix 7.

Each KP certificate is verified by comparison with original, authentic KP certificates from the country in question. Examples of KP certificates from each participating country are at the Diamond Office and used for each shipment. When the procedure is completed, the client receives the shipment. The order is reversed for rough diamond exports, where the expert seals the container immediately after the physical inspection of the shipment. If all aspects of a shipment are in compliance and no further investigations are required, the total procedure takes about 20 minutes. The diamond trader pays the inspection costs, which depend on the value of the shipment.

The numbers of KP certificates verified for imports and issued for exports are shown in the tables 1 and 2 below, including the provision certificates used in January 2003. The tables also mention the number of importing and exporting firms. Separate data are provided for exports using the conclusive evidence procedure for non-members of the diamond bourses, which are only a small proportion of total shipments. The tables 1 and 2 cover the trade in rough diamonds only. The number of total shipment registrations in 2003, for rough and non-rough diamonds combined, was 57,127 for imports and 103,178 for exports.[39]

**Table 1: KP certificates for imports into Belgium.**

| **Period** | **KP certificates verified** | **Importing firms** |
|---|---:|---:|
| 2003 | 8,521 | 392 |
| 2004, till May 24 | 3,717 | n/a |

Source: Ministry of Economic Affairs.

**Table 2: KP certificates for exports from Belgium.**

| | **Total** | | **Conclusive evidence** | |
|---|---:|---:|---:|---:|
| **Period** | **KP cert. issued** | **Exporting firms** | **KP cert. issued** | **Exporting firms** |
| 2003 | 31,764 | 558 | 77 | 9 |
| 2004, till May 12 | 13,466 | n/a | 255 | 7 |

Source: Ministry of Economic Affairs.

The average shipment size of rough diamond imports was approximately 12,000 carat in 2003 while the average size of rough diamond exports was smaller at 4,000 carat.[40] One might expect that traders are now sending on average larger shipments of rough diamonds, due to the increased administrative burden of the certification and inspections of each shipment. However, export shipments using the conclusive evidence procedure, for which the administrative burden is probably highest, show rather a reverse trend.[41] The number of such shipments has increased from 2003 to 2004 mainly due to smaller quantities per shipment.

[39] Communication with M. Van Bockstael, 27 July 2004.
[40] For imports, this is 100 million carat (the roughly estimated total of extra-EU imports in 2003) divided by 8,512 shipments. For export, 119 million divided by 31,764. See also note 66.
[41] For a description of the conclusive evidence procedure, see page 20.

All invoices and KP certificates are stored at the Ministry of Economic Affairs office in Antwerp. Data from the certificates are also entered into an electronic database, which is regularly checked for errors, at the Ministry office. In addition to the three employees at the Diamond Office, two more representatives from the Ministry work on the processing of the KP certificates data.

Most import shipments contain diamonds from different countries of origin. These are sets of diamonds that were mined in different countries, or of which the origin was perhaps declared as ‘unknown’.[42] The KP certificates of such shipments do not mention a country of origin, but only the country of provenance, that is, the exporting country. This is in accordance with KPCS guidelines. Calculations based on data from the UK and the European Commission show that these shipments accounted for approximately 45% of the total volume of rough diamond imports into Belgium.[43]

## 4.3 Transit procedures

The airports Zaventem in Brussels, Schiphol in Amsterdam and Deurne near Antwerp are the main points of arrival for rough diamond shipments inspected at Antwerp. These airport custom departments and the Diamond Office cooperate closely.[44] Usually Belgium is either at the beginning or end of rough diamond trading chains in the EU and so there are hardly any transit shipments passing through Belgium to other KP participants (countries outside the EU).[45] Nonetheless, an unpublished Ministerial declaration addresses any remaining loopholes in regulations for such transits.[46] The yet to be published statement specifies that shipments containing rough diamonds need not be inspected if they enter Belgium with the sole purpose of being re-exported to another KP participant, on the condition that the original container and accompanying KP certificate are intact when the shipment enters and leaves Belgium.

The Diamond Office handles only a few transit shipments via Belgium to or from other EU countries, per month. These few transit shipments are both imports and exports. Due to the limited number of companies involved in these operations, more precise figures are confidential. The Diamond Office estimates the number of companies importing/exporting rough diamonds directly to/from other European countries is very low, and from the following countries only:[47]
Approximately 5 companies from Germany
Approximately 5 companies from The Netherlands[48]
Approximately 1 or 2 companies from France

---

[42] This last possibility is suggested by the records of KP certificates that were verified in the UK.
[43] This is 53.2 million carat of EU imports minus 7.8 million carat of UK imports, out of an estimated total of 100 million carat of Belgian extra-EU rough diamond imports. See also tables 6 and 16 and note 66.
[44] Interview with A. Waem and L. Paesschiersens, 26 May 2004.
[45] Interview with A. Waem and L. Paesschiersens, 26 May 2004.
[46] *Ministerieel besluit inzake douaneregelingen verbonden aan de Kimberley proces certificering voor de internationale handel in ruwe diamant.* (unpublished).
[47] Interview with A. Waem and L. Paesschiersens, 26 May 2004; communication with F. Coosemans, 22 June 2004.
[48] These include Van Alphen International, some other diamond tool companies, and Royal Asscher. See for more information page 43.

Approximately 1 company from Luxembourg

The Belgian Ministry of Economic Affairs does not know what regulations exist in other EU countries regarding these transits. There is close cooperation, however, with the Dutch and German governments and Belgium has an economic union with Luxembourg. The Belgian Ministry of Economic Affairs does not know what happens with imports through other EU countries, including France. It suspects that virtually all transit shipments from or to those countries pass through the UK. In theory, problems with transits are possible as customs authorities in other countries are entitled to open a container, but in practice such problems have not occurred.[49]

For example, when a consignment containing rough diamonds arrives at Amsterdam Schiphol Airport, Dutch customs officials do not open it because they require the shipment continue to a point of entry for inspection, usually Antwerp.[50] A diamond trader (receiver of the shipment), does not have to physically be at the point of entry and therefore would not necessarily be waiting for the shipment at Schiphol. The diamond shipment would normally be transported, in insured armoured vehicles, to Antwerp by specialized companies.[51] Sometimes shipments are transported by plane. Until the shipment arrives in Antwerp, it remains technically outside of the EU. After the inspections at the Diamond Office, it is up to the trader to handle customs procedures, either in Antwerp or back in The Netherlands. Usually Dutch traders choose the latter.[52]

If a trader wishes to export from another country, the shipment is first sent to the Diamond Office for the usual procedure, except for customs clearance. After inspection, the sealed container is sent to the exporting country accompanied by the invoice and the issued KP certificate, and customs are handled in the export country.[53]

## 4.4 Requirements for KP export certificates

A simple declaration is sufficient to obtain an export certificate for those members from one of the listed diamond bourses.[54] For non-members of one of the bourses, all necessary documents need to be submitted to the Ministry of Economic Affairs in order to prove that the diamonds have been legally imported and conflict-free. The proof must trace the source of the diamonds back to one of the following:
Invoices with warranties, demonstrating the diamonds were purchased from bourse members,
KP certificates for imports,
Certified pre-2003 diamond stocks.
The physical inspection must show that the value of the diamonds is the same as the value mentioned on the invoices or KP certificates, which verifies that the document application matches the contents of the shipment.

[49] Interview with A. Waem and L. Paesschiersens, 26 May 2004.
[50] Interviews with A. Waem, 26 May 2004.
[51] Interview with A. Waem and L. Paesschiersens, 26 May 2004; communication with F. Coosemans, 22 June 2004.
[52] Interview with A. Waem and L. Paesschiersens, 26 May 2004.
[53] Interview with A. Waem and L. Paesschiersens, 26 May 2004.
[54] See Council Regulation (EC) No. 2368/2002, appendix 5.

This so-called conclusive evidence procedure is considered a heavy administrative burden for the exporting companies. So far, most applications for export certificates by non-members concern simple operations, with relatively small shipments and short chains between imports and exports. These applications are most often for export transactions by new companies directly importing diamonds from outside the EU. If the chains become longer, the verification procedure becomes much more complicated. So far, there have been no problems with conclusive evidence procedures and KP export certificates have been issued in all cases.[55] As mentioned in the previous section, exports using the conclusive evidence procedure are only a tiny proportion of total export shipments.

## 4.5 Stock declarations and pre-2003 diamond stocks

Prior to 2003, an annual declaration of diamond stocks system existed in Belgium. This stock system covered all categories of diamonds and all diamond traders in Belgium, including those not affiliated with a diamond bourse. It was relatively easy to certify stocks of diamonds that were legally present in the European Community before the EC Regulation for the KPCS entered into force. The Ministry requested and obtained a separate stock declaration for rough diamonds from all companies as of 31 December 2002.[56]

The Royal Decree of 30 April 2004 lays down detailed guidelines for the annual declaration of diamond stocks and stock changes. The value, weight and classification of all diamonds held by the trader, or by others on behalf of the trader, must be reported to the Ministry. In addition, declarations cover the changes in the characteristics of the diamond stocks as a result of processing or sorting during the past year. The company that owns the diamonds and/or contracted companies have to report on the weight, value and classification of the diamonds before and after the processing.[57]

Certifying stocks is handled for each EU member country individually. The HRD and the Belgian Ministry of Economic Affairs do not know whether pre-2003 stocks have been certified in other EU countries or countries outside the EU.[58]

The WDC recommends that the warranties on invoices for sales of diamond that pre-date 2003 consist of a formulation like this:

'*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.*'[59]

---

[55] Interview with A. Waem and L. Paesschiersens, 26 May 2004.
[56] Interview with A. Waem and L. Paesschiersens, 26 May 2004.
[57] See appendixx 8.
[58] Interviews with A. Waem, L. Paesschiersens, and M. Van Bockstael, 26 May 2004.
[59] WDC (2003). The Essential Guide to Implementing The Kimberley Process, p9.

In the case of combination of diamonds from both pre- and post-2003 stocks, the WDC suggests including both a warranty, like the one above, and the usual warranty mentioned in the introduction.

However, Belgian companies must follow European Community regulations, not the WDC recommendations. EC Regulation No. 2368/2002 does not specify different warranty texts. It should also be noted that Belgium required stock declarations long before 2003. When the Belgian Ministry checked the warranties, it found that only the warranty statement mentioned in chapter 2 was used (see page 9). It was therefore unable to determine which proportion of exports contained diamonds from pre-2003 stocks.[60]

## 4.6 Irregularities and sanctions[61]

The Ministry of Economic Affairs has discovered several irregularities since KPCS was initiated, which are always reported to the European Commission. Examples of irregularities for imports are the following;
A shipment of rough diamonds arrives without a KP certificate,
A KP certificate has been filled incorrectly, the description does not match the contents of the container,
A KP certificate mentions a non-participating country as the country of origin or provenance,
A shipment arrives in a container that is damaged or not properly sealed,
The contents of a shipment are described as polished diamonds, but rather it contains rough diamonds or a combination of rough and polished diamonds.
In cases such as these, the authorities from the exporting country are contacted.

In many situations, mistakes took place. For example, in the first half of 2003, tens of cases were confused. This included countries either added or removed from the list of KP participants, such as the 20 countries removed at the end of the tolerance period. Occasionally, rough diamonds were exported without a proper KP certificate, also causing irregularities.

In a few cases where irregularities are not resolved, the Community Authority passes the case to customs and investigations are then performed by individual member states.

Several procedures are currently in place against companies violating the KP provisions. Violation cases are in progress in a handful of countries, also outside of Belgium and the UK. Details and precise numbers of such cases are not available due to confidentiality and on-going lawsuits.

The current investigations in Belgium and other EU countries on EU regulation violations all started after September 2003 (tolerance period until that date) with most commencing in 2004. None of the cases so far have concluded and until now, no legal sanctions have been imposed. And, it is unclear how long these cases might take before a final judgement is reached. Older cases involving companies violating UN sanctions

[60] Interview with A. Waem, 26 May 2004; communication with F. Coosemans, June 2004.
[61] This section is based on interviews with A. Waem and L. Paesschiersens, 26 May 2004.

against Angola and Congo are ongoing, which suggests more recent cases could last several years.

In one case, Belgian custom authorities intercepted illegal imports. Three Gambians were caught at Zaventem airport with rough diamonds, which they intended to sell on the European market. Sometimes, when they suspect criminal activity, the police ask the Ministry of Economic Affairs for data on transactions in rough diamonds, however the Ministry claims it does not know how police arrive at these suspicions. The Ministry rarely asks the police to carry out investigations.

Those imports, which are not in compliance with the import requirements are sanctioned by detaining the shipment and confiscating the goods. This has happened some 6 or 7 times. What happens with these shipments has yet to be determined. The member countries determine additional sanctions.

In Belgium, the additional sanctions are derived from the sanction law, from before the introduction of the KP and include confiscation of the means of transportation, fines, and imprisonment.[62] The sanctions are the same as those for the previous system of UN sanctions for imports form Liberia, Angola and Sierra Leone.

## 4.7 Supervision by the European Commission[63]

The Belgian Community Authority sends monthly data on import and export certificates to the European Commission. This is the same data entered into the Ministry database on KP certificates. The monthly reports also address any problems that have occurred. The Belgian authorities and the Commission agree the cooperation is smooth.

The Commission is in daily contact with both the Belgian and UK Community Authorities and is impressed with the functioning of both. In the opinion of the Commission, they have implemented the system extremely quickly and there are no inspection bottlenecks.

Initially the European Commission was closely involved whenever irregularities were discovered, but now this is left to the relevant member state authorities. When irregularities are not resolved and legal processes and investigations are initiated, the Commission gets involved, including those countries where cases are ongoing and those without a Community Authority. When investigations and legal proceedings come to an end, the Commission reports the outcome to the KP Chair, but as was mentioned before, no cases have yet concluded.

The European Commission has instructed all member states to send diamonds in transit to a Community Authority for inspection, however there is no control system in place for compliance by custom services in all EU countries. According to the Commission, diamonds are easy to smuggle regardless of whether effective transit procedures are in place.

[62] Ministry of Economic Affairs Belgium (February 2001). The belgian monitoring system.
[63] This section is partly based on interviews with A. Waem and L. Paesschiersens, 26 May 2004.

## 4.8 Diamond trade statistics for Belgium

The Royal Decree of 30 April 2004 restricts the disclosure of macro-economic data collected by the Diamond Office to the HRD and the Ministry of Economic Affairs.

Since 2003, the Ministry and the HRD do not disclose statistics on trade in rough diamonds for individual countries of provenance and destination. These statistics, based on the data mentioned on the KP certificates, are only provided to the European Commission. The HRD has become more stringent in disclosing trade statistics as a result of public reactions and interest. The fact that Belgium imports large quantities of rough diamonds from the Democratic Republic of Congo, for instance, has been regarded with suspicion.

Statistics on total imports and exports are still available. These are different from the KP records that will be presented in the following chapters. The import and export figures for 1991 to 2003, including the difference between import and export volumes, are shown below in table 3. These are ordinary trade statistics for the classifications 7102.10, 7102.21 and 7102.31, not based on data from KP certificates.[64] They include intra-EU trade, for which KP certificates are not required. In 2003, industrial rough diamonds accounted for 13% of total rough diamond imports and 6% of exports.[65] Total imports of rough diamonds to Belgium from outside the EU are estimated at 100 million carat in 2003. Total rough diamond exports to outside the EU were approximately 119 million carat.[66]

[64] The data may be different from KP statistics (see background chapter). The trade data mentioned in the report Fatal Transactions (2001). *Conflict Diamonds: Crossing European Borders?* are different, because they do not include the classification 7102.21 (rough industrial diamonds). In that report it was found that since 1991, Belgian exports exceeded imports by almost 7% per year on average. However, total trade in rough diamonds, including code 7102.21, does not show a negative trade balance.

[65] Calculations based on the figures in table 3, and HRD (2004). *Overview of Belgian diamond trade since 1991*.

[66] These approximate figures are obtained by subtracting imports/exports under the KPCS to the UK from total EU imports/exports under the KPCS. Extra-EU trade to and from other EU member states is much smaller. However, the issuing of KP certificates started in February 2003 only and therefore the estimate of total extra-EU exports in 2003 is not accurate. Belgian exports under the KPCS, from February to December 2003, were approximately 93 million carat. The rough estimate of 100 million carat is based on the assumption that exports were more or less constant during the year.

**Table 3: Belgian rough diamond imports and exports 1998-2003 (including intra-EU trade, HS codes 7102.10, 7102.21 and 7102.31).**

| | **Import** | | **Export** | | **Difference** |
|---|---|---|---|---|---|
| | **1000 ct** | **mln Euro** | **1000 ct** | **mln Euro** | **1000 ct** |
| 1991 | 118.821 | 4.603 | 100.403 | 4.041 | 18.418 |
| 1992 | 89.720 | 4.620 | 81.117 | 4.208 | 8.603 |
| 1993 | 111.806 | 5.213 | 95.157 | 4.649 | 16.649 |
| 1994 | 81.964 | 5.543 | 88.079 | 4.946 | -6.115 |
| 1995 | 112.794 | 6.344 | 111.775 | 5.831 | 1.019 |
| 1996 | 156.302 | 7.223 | 130.922 | 6.354 | 25.380 |
| 1997 | 179.547 | 6.879 | 173.239 | 6.357 | 6.308 |
| 1998 | 179.299 | 5.498 | 186.752 | 5.183 | -7.453 |
| 1999 | 183.568 | 7.161 | 181.508 | 6.951 | 2.060 |
| 2000 | 151.750 | 7.479 | 149.328 | 7.036 | 2.422 |
| 2001 | 152.690 | 6.184 | 145.111 | 5.768 | 7.579 |
| 2002 | 176.768 | 7.206 | 175.666 | 7.013 | 1.102 |
| 2003 | 164.116 | 8.008 | 143.754 | 7.539 | 20.362 |
| **Total** | **1.859.145** | **81.961** | **1.762.811** | **75.876** | **96.334** |

**Source: HRD, communication on 27 July 2004.**

We have not seen a sudden drop in imports in 2003 as a result of the strict EU regulations, at least not of a magnitude larger than the variance in imports over the preceding five years. The HRD reckons that the majority of trade flows will in any case go to London or Antwerp.

As the system is stricter in Belgium, one might expect a drop in imports. This however is not the case because with tax evasion imports are first going to an intermediary country, where the shipment is re-exported with a higher declared value on to Belgium (see Chapter 3). This is not visible in the total amount of imports. Because of export taxes, a shipment could be exported to Switzerland and then re-exported to Belgium rather than being shipped directly to Belgium. Yet the shipment still arrives in Belgium, so total imports are not affected.

The HRD provided recent statistics on rough diamond extra-EU exports to individual countries only for the years 2001-2002. These are shown in the table 4, but these figures alone do not tell much about the changes in diamond trade flows since the implementation of the Council Regulation. Recent statistics on rough diamond imports from individual countries are not provided.

**Table 4: Belgian extra-EU rough diamond exports 2001-2002 by country (HS codes 7102.10, 7102.21 and 7102.31).**

| | **2001** | | **2002** | |
|---|---|---|---|---|
| | **1000 ct** | **mln US$** | **1000 ct** | **mln US$** |
| India | 102,233 | 2,303 | 137,801 | 3,390 |
| Israel | 5,852 | 1,626 | 6,708 | 1,706 |
| China | 2,239 | 274 | 3,087 | 384 |
| UK | 3,723 | 306 | 2,375 | 268 |
| USA | 2,066 | 287 | 1,556 | 236 |
| Hong Kong | 4,230 | 180 | 7,015 | 215 |
| Thailand | 1,196 | 171 | 1,471 | 210 |
| UAE | 15,128 | 188 | 7,822 | 177 |
| Sri Lanka | 883 | 113 | 871 | 132 |
| Armenia | 242 | 32 | 306 | 78 |
| Other countries | 7,357 | 2,959 | 6,635 | 216 |
| **Total** | **145,150** | **5,774** | **175,652** | **7,014** |

Source: HRD jaaroverzicht 2003-2001.

Ministry of Economic Affairs data shows that intra-EU imports of rough diamonds to Belgium, from countries other than the UK, decreased sharply from 2002 to 2003. The value of these imports dropped far below Euro 1 million except for Germany and Portugal.[67] This suggests that imports into Europe are increasingly going directly to Antwerp and London.[68]

Recent statistics on Belgian imports of rough diamonds from other sources, split by country, are attached in Appendix 9. [69] However, these are not KPCS statistics and include the value of imports only, not carat weight. The data are from the Belgian National Bank (BNB), not the HRD or the Ministry of Economic Affairs, and should be approached with great caution for several reasons, which are explained in the Appendix. Nonetheless, the data shows imports from non-KPCS participating countries were discontinued in 2003, or fell considerably in the case of countries that were removed from the participant list during the first year.

## 4.9 Industry self-regulation in Belgium

The first part of this chapter dealt with the implementation of the import and export regime, which applies to trade with countries outside the EU only. The second part of this chapter will now address the implementation of the system of industry self-regulation in Belgium, which applies to both domestic and international trade and complements the import and export regime.

The system of industry self-regulation has been included in the Council Regulation and the EU has moved ahead of other KPCS participants. The system is however, complicated in Belgium due to several administrative layers and the various actors

[67] Letter from F. Coosemans, 15 June 2004.
[68] The HRD had doubts about these developments, though.
[69] These statistics are also available on http://www.ipisresearch.be/E/aENond01.htm.

involved. Before the system is described, a short overview outlines the roles and responsibilities of main actors.

The four bourses in Antwerp are responsible for the implementation of the system by their members.
The Federation of Belgian Diamond Bourses (FBDB) is the umbrella organization of the four bourses and has the authority to decide on the regulatory framework for the system, judge infringements and impose sanctions on the members.
The HRD has no formal responsibility. It has a coordinating and supportive role.
The Ministry of Economic Affairs (the Community Authority) is responsible for supervising the system in Belgium. The bourses and their members report directly to the Ministry.
The European Commission is ultimately responsible for supervision of the system in the EU as a whole.
The World Federation of Diamond Bourses (WFDB), the International Diamond Manufacturers Association (IDMA) and the World Diamond Council (WDC) have no formal role in the system as far as its implementation in the EU is concerned.

## 4.10 The Code of Conduct of the bourses[70]

The four Belgian bourses were admitted to Annex V of the Council Regulation on 30 April 2003, having fulfilled all formal requirements. To be admitted, they adopted a common Code of Conduct. This Code of Conduct is a public document and is attached to this report as Appendix 8. The bourse in the UK has a code that is almost identical.

Before the Code of Conduct was adopted, only individual persons could become a member of a diamond bourse. In practice, most diamond exports are represented by companies rather than individuals. Consequently, to comply with Council Regulation, companies were required to become bourse members.[71] The bourses therefore introduced a second type of membership, for companies, called KP membership. The membership of individuals remains, and only these members are allowed to enter the building of the bourse. The Code of Conduct applies to all members and KP members. A company automatically becomes a KP member when one of its directors is a member. This director has the responsibility of ensuring the company (including all the people that work for it) adheres to the Code of Conduct.

The Code of Conduct refers to Article 17(2)(a) of Council Regulation (EC) 2368/2002 on the system of industry self-regulation. The requirements set forth in this article therefore automatically become obligations for the bourses, their members and KP members.  Members that trade with members of other European bourses are expected to follow the same regulations and a warranty is accepted as to prove the conflict-free origin of the diamonds.[72] However, with bourses in other EU countries not listed on Annex V of the Regulation and therefore not supervised by the European Commission,

---

[70] This section is largely based on interviews with L. Cornelissens and Ph. Claes, 26 May 2004.
[71] Council Regulation (EC) 2368/2002, Article 17(2)(a). This article explicitly mentions natural as well as legal persons as potential bourse members.
[72] Interview with A. Waem and L. Paesschiersens, 26 May 2004.

there is less control over the implementation of the system. Bourses that are not listed may be reporting to the WFDB or WDC rather than the Commission.

The code forms an integral part of the Federation of Belgian Diamond Bourses (FBDB) regulation, but the Code of Conduct, which complements the KPCS prevails over other regulations.[73] Only the board of the FBDB is entitled to modify the code.

The code also provides a Council and Appellate Council to judge code infringements and impose sanctions on the members and KP members. An existing FBDB dispute settlement committee determines the councils' composition. This committee is also responsible for investigations on potential violations of the code.

Possible sanctions explicitly include expulsion from the bourse. Bourses have the obligation to publish the names of all individuals and companies found guilty of violating KP certification scheme regulations.[74] Members of the bourses are prohibited from buying rough diamonds from these persons or companies. [75]

### 4.11 Membership of the bourses

The Antwerp diamond sector tried to include a clause during the drafting of the European Community Regulation, whereby it would be obligatory for all companies trading in rough diamond to be affiliated with a bourse.
This proposal did not pass due to the restrictions it would allegedly impose on free competition.[76] Hence, a company found in violation of the Code of Conduct can be expelled from a diamond bourse, but it cannot be prohibited from trading in rough diamonds with other non-members that do not themselves re-export the diamonds.

The HRD and the bourses still would like to have all companies trading in rough diamonds affiliated with a bourse[77] and they almost succeeded in this. Table 5 shows that as of May 2004 only 7 out of 688 companies trading in rough diamonds were not affiliated with a bourse. Traders from other EU countries can also become KP members of the Bourses in Antwerp, which is not very difficult, especially if they are already affiliated with a bourse in their own country.

[73] See the code of conduct, appendix 8.
[74] Council Regulation (EC) 2368/2002, Article 17(2)(b).
[75] Council Regulation (EC) 2368/2002, Article 17(2)(a)(iv).
[76] Interview with M. Van Bockstael, 26 May 2004.
[77] Interviews with L. Cornelissens, Ph. Claes, and M. Van Bockstael, 26 May 2004.

**Table 5: Overview of diamond firms in Belgium, May 2004.**

| | **Diamond firms (as of May 2004)** |
|---|---|
| Registered in Belgium [78] | 2,246 |
| KP members of the bourses | 688 |
| Exporting firms using conclusive evidence | 7 |

**Source: Ministry of Economic Affairs.**

As part of their registration duties described in the previous chapter, all Belgian diamond traders have to inform the Ministry of Economic Affairs about their diamond bourse memberships or any changes with their affiliations.[79] The bourses themselves also provide the Ministry and the European Commission with their member lists and report changes in membership. However, this information is not publicly available.[80]

Actively trading personal members of the bourses were informed about the Code of Conduct and obliged to sign a statement saying they would comply. New members also signed. None have had any problems stating their commitment to the code. Apart from actively trading members, the bourses have other types of members, including those who are retired and not actively involved in the diamond trade. Retired members are not obliged to sign the code. The Antwerpsche Diamantkring is the most important bourse for the rough diamond trade,[81] with almost a thousand members of which approximately 690 individuals trade in rough diamonds.

### 4.12 Practical arrangements and implementation[82]

As of May 2003, most aspects of the warranty system were already agreed and implemented, including stated warranties on every invoice, and regular reporting by the bourses, on issues like membership change. Various practical issues regarding industry self-regulation were still to be negotiated between the Ministry and the bourses. The HRD facilitated these negotiations. The European Commission approved the arrangements, and was not flexible regarding the Council Regulation requirements. The format for reporting to the Ministry, reporting schedules, and methods of exchanging information on cases between countries were still under discussion. The bourses were yet to come to an agreement with the Ministry on an independent audit scheme for the System of Warranties. Small company audit exemptions were also discussed.

In July 2004, the draft protocol for the monitoring of the system of industry self-regulation, negotiated between the Ministry and the bourses, was discussed with Minister Moerman of Economic Affairs and was, in principle, approved. Only the provisions for the submission of reports from independent auditors still had to be agreed. Companies with a relatively small turnover will not necessarily have to produce a report every year, which will help reduce the large burden around the verification

[78] Including companies that trade in polished diamonds only.
[79] This obligation is included in the Royal Decree of 30 April 2004. See appendix 7.
[80] See http://www.worldfed.com/website/boursedirectory.asp.
[81] For more information about this bourse, see http://www.diamantkring.org.
[82] This section is largely based on interviews with L. Cornelissens, Ph. Claes, and L. Paesschiersens, 26 May 2004, and communication with Ph. Claes in July 2004.

process for these companies. In principle, such an arrangement is acceptable by Council Regulation (EC) No. 2368/2002.

The protocol has now been concluded and was signed on 7 September 2004 by the new Minister of Economic Affairs, Mr Verwilghen, and the presidents of the four bourses. The procedures laid down in the protocol include the following.[83]

Bourses will oblige their members and/or KP members to obtain certification from an independent auditor on the implementation of the system of warranties. The certification concerns two points:
copies of all invoices for rough diamond purchase and sales are stored;
all transactions meet the requirements of the EC Regulation, or transactions that failed to meet these requirements have been reported to the authorities.
A model formula for the auditors' verification statement is provided in annex 1 to the protocol. The protocol does not explicitly state that auditors are to match the records of warranties issued and received with any changes in stocks and/or changes due to the processing of rough diamonds. However, auditors are to provide a statement that after 'usual accounting verifications' there are 'no indications' for violations, and such verifications should involve matching these data.

Companies with an turnover (sales + purchases + imports + exports) of more than 6,250,000 Euro have to submit these declarations each year. The submission of declarations from independent auditors to the Ministry of Economic Affairs is combined with the annual stock declaration. Companies with a lower turnover will have to submit such a declaration only once in every three years.

The modalities for the annual independent audits are specified in annex 2 to the protocol. The Ministry sends a request for independent audits and stock declarations before 31 December. These have to be submitted before 1 April. Within a month (end of April) the Ministry informs the companies whether their declaration is valid and accepted, or if no declaration has been received, the Ministry will send a reminder. After another month (end of May) the Ministry sends an overview to the bourses of the declarations received. The bourses will then contact their members and/or KP members that have not fulfilled the auditing obligations. The companies will have a final opportunity to submit documentation directly to the bourse, within a month (so, by end of June). If they fail to do so, the bourse will call upon the Council, provided for by the code of conduct as explained before, to deal with the case and impose sanctions.

The bourses will report to the Ministry on an annual basis, before 30 September, on the results of the functioning of the system of self-regulation. These include the actions the bourses have taken against any members that failed to meet their obligations and the results of these actions. Annex 3 to the protocol provides a more detailed description of the bourses' reporting responsibilities to the Community Authority. The delayed declarations that have been received directly by the bourses are send to the Ministry

[83] *Protocal betreffende de monitoring van het system van zelfregulering zoals bepaad in artikel 17 van de Verordening (EG) nr. 2368/2002 van de Raad van 20 december 2002 tot uitvoering van de Kimberley Proces Certificering voor de internationale handel in ruwe diamant houdende implementatie van de Kimberley Proces Certificering voor internationale handel in ruwe diamant.* 7 September 2004.

together with the report. From 1 October onwards, the Ministry will require 'conclusive evidence' from all members and/or KP members that did not meet their obligations.

Finally, the Ministry delivers a comprehensive report on the functioning of the system to the European Commission.

Although no audits had taken place as of August 2004, the Ministry noted awareness-raising concerning the audits was making progress. At first it had been difficult convincing Antwerp diamond traders of the necessity of industry self-regulation. They needed to know that the system would be in their long-term interest. However, obligations stemming from Council Regulations are clear, yet in practice, things are more difficult. All industry organizations and the Ministry agree the implementation of KPCS and the System of Warranties still needs more time for pieces to fall into place. In many ways, the time frame for implementation has been underestimated.[84]

### 4.13 Violations of the Code of Conduct

In principle, there are two possibilities for investigating potential Code of Conduct violations. Firstly, the FBDB can initiate an investigation on the basis of its own information. Secondly, government authorities can start an investigation if they detect a potential violation. There may be contact between the industry organizations and the authorities, but there are no official agreements with regards to which agency should carry out an investigation.

As of yet, no investigations by the dispute settlement committee of the FBDB or cases handled by a FBDB Council have taken place. The investigations on violations of the import and export regime were carried out by the police. These violations concerned the import and export regime under the KPCS, not the System of Warranties. Investigations by the police carry more weight than investigations by the bourses and the bourses will accept the legal judgements on cases. As no cases have been concluded up to date, no sanctions against members have been imposed. Although the Council Regulation specifies that expulsion of a member should be preceded by an investigation by the bourse itself, the bourse can simply base its own investigation on the outcome of a legal procedure. The only potential problem here is that legal authorities are not obliged to inform the FBDB or the bourses on their investigations. The FBDB must always inform the Ministry of any potential violations under the system of industry self-regulation.

### 4.14 Supervision by the European Commission

The bourses submit annual reports to the Belgian Ministry of Economic Affairs and the Ministry in turn submits an annual report to the European Commission on industry self-regulation. The Commission is also regularly informed about the progress of the bourses. However, the Ministry has not yet performed a detailed assessment of the implementation of the self-regulation system by the bourses and their members. According to the Commission it is therefore too early to comment on how the system

[84] Interviews with L. Cornelissens, Ph. Claes, A. Waem, L. Paesschiersens, and M. Van Bockstael, 26 May 2004

functions. The Commission expects the required information will become available later in 2004.

## 4.15 Conclusions

The Belgian import and export procedures are clear and strict and the European Commission has good insight into them. That diamonds may be declared as pre-2003 stock from companies in other EU countries, which are not registered and can therefore not be verified, is one major weakness. On this issue, transparency is low, because in spite of WDC recommendations, the same warranty text was found for diamonds imported before and after 2003. However, the registration of pre-2003 stocks in other countries is not the Belgian government's responsibility.

The lack of quick action on irregularities is also a weakness, because it allows companies that have violated the KPCS to continue trading in rough diamonds until a final judgement is reached. However, according to the KPCS, the Ministry of Economic Affairs and customs are doing everything that can be expected to prevent the import/export of conflict diamonds via Antwerp.

In theory, the existing regulations currently adopted by the bourses meet all requirements. However, the system of industry self-regulation is not yet fully implemented. At present the records of warranties received and issued by diamond companies have not been audited and there are no guarantees the system is functioning effectively. Currently the European Commission does not have sufficient insight into the matter. Audits for the year 2003, the first year of implementation, should be carried out in Autumn 2004, in order to sustain the credibility of the system.

An additional weakness is that warranties issued by members of bourses in other EU countries are considered equally reliable as those issued by members of the Antwerp and London bourses, but the Commission supervises only the Antwerp and London bourses. Bourses in other EU countries, such as The Netherlands, do not require their members to have independent audits of the records of warranties issued and received.[85] Without such verification, the chance of detecting violations of the system of industry self-regulation is very low. Hence, the system in other countries is not as reliable as it would be in Belgium and the UK when fully implemented.

[85] See page 43 for the implementation of the system of warranties in The Netherlands.

# 5 The United Kingdom86

## 5.1 Introduction

The UK diamond industry is dominated by the world's leading diamond mining and marketing company, de Beers. The rough diamond sales division of De Beers is called the Diamond Trading Company (DTC). The DTC is the largest supplier of natural rough diamonds worldwide,[87] and conducts a majority of the trade in rough diamonds to and from the UK. De Beers is also a strong proponent of the strict regulation in the EU for the KPCS, and has been one of its driving forces. The system might also yield competitive advantages for De Beers, as the KPCS is easier to implement for large companies. Furthermore, De Beers procures most of its rough diamonds directly from the mines and ships them in very large quantities. This also facilitates the implementation of the KPCS. There are some 15 other companies in the UK trading regularly in rough diamonds. There is one diamond bourse in the UK, the London Diamond Bourse and Club. De Beers is a member of the bourse. The UK Community Authority for the implementation of the European Community regulation is the Government Diamond Office (GDO), a division of the Foreign and Commonwealth Office (Ministry of Foreign Affairs).

## 5.2 Import and export inspections

Customs officials require the importer present a KP certificate when importing rough diamonds into the UK. Customs verify the authenticity of the certificate by ensuring the exporting authority validated it properly. Customs also check to make sure the consignment of rough diamonds is contained in a tamper resistant box with unbroken seals. If the country of origin mentioned on a KP certificate is not credible, for instance because it has no domestic diamond production, the shipment can, in principle, be detained pending clarification from the export country. Importers must submit a standard 'Import Declaration' form. Customs then, using a risk analysis scheme, decide whether to first inspect the consignment or to clear it for import.

Risk analysis assessments are based on a combination of information sources, some of which are open, others confidential. The assessment considers subjects including the country of origin, routes used to ship the goods, and the exporters and importers involved. The Customs authorities develop profiles, which are stored on the main computer system, which could trigger possible inspection or some other form of action. The GDO cannot disclose further details of the risk analysis assessments, nor on the number of shipments selected for inspection.

When a shipment is selected for physical inspection, Customs contact an independent diamond valuer through the GDO. The GDO has six sworn experts, or valuers, on

[86] This chapter is mainly based on information from the UK Government Diamond Office, received by e-mail on 15 July 2004 and 5 August 2004.
[87] http://www.debeers.com/en/about.html; http://www.dtc.com.

contract.[88] The valuer and one member of the GDO normally present themselves to the person responsible at Customs before conducting the inspection. The inspection is in the presence of (the agent of) the importer and a Customs officer. The valuer is told the country of origin or provenance, the carat weight and value of a shipment. For reasons of commercial confidentiality, no other details are provided. The valuer then verifies whether the physical characteristics and estimated value are consistent with the information on the KP certificate and other documents accompanying the shipment. The allowed margin for valuation depends on the nature of the shipment. The GDO notes that *'it is difficult to insist on a tight margin on valuation when, for example, a consignment consists of just a handful of stones'*. However, as a general rule, a 15% margin is allowed.

Some shipments are very large and consist of many parcels, which are all recorded separately on the KP certificate. A single consignment from Botswana, for example, may contain over 1 million carat (200 kg) of rough diamonds. According to the GDO, it would take far too long to check such shipments completely. The GDO therefore selects random parcels from large shipments for physical inspection. In the case of smaller shipments, the entire contents are inspected.

After the risk analysis and (if applicable) physical inspections, and assuming all is in order, any VAT-related payments or procedures are settled and the goods are cleared for import.

For exports of rough diamonds from the UK, the exporting company submits an application to the GDO. In the case of a known member of the London Diamond Bourse and Club, this takes the form of a faxed copy of the exporter's invoice. The invoice must include information including the consignee, carat weight and value of the shipment, the classification of the diamonds according to the Harmonized System, and a warranty. In addition, non-members are required to submit conclusive evidence of legal import of the rough diamonds into the EU. As a minimum, this evidence must consist of KP certificates and invoices from suppliers of the diamonds.

On the basis of the risk analysis system, the GDO decides whether to inspect the consignment for export using one of the independent valuers. The parcels are sealed at the end of the inspections. In addition, the GDO operates a system of random inspections. These allow the GDO to become familiar with the UK diamond industry and complement the documents submitted as conclusive evidence. The GDO has just sufficient capacity to handle all shipments. Its budget allows for an estimated number of physical inspections, based on practical experience and risk analysis over the past 12 months, plus an additional number on a random basis. The number of random inspections is adjusted in line with the budget. The valuer conducts the inspections for exports, in the presence and on the premises of the exporter and either the Head or Deputy Head of the GDO.

The exporting company also must submit an Export Declaration to Customs. Customs randomly checks that KP export certificates accompany exports.

[88] GDO (5 March 2003). *Sworn experts and other news.* (Informative letter from the Foreign and Commonwealth Office.)

The GDO aims to complete export procedures within 24 hours of the application reaching its office. Customs aim to effect clearance within 12 hours of the paperwork being submitted by the importer or agent. In practice, however, both periods are much shorter.

The UK islands known as the Crown Dependencies (e.g. Isle of Man) fall under the KP. Customs officers are trained to process shipments containing rough diamonds entering or leaving those islands. In contrast, all overseas territories of the UK (e.g. Bermuda, Cayman Islands, Falkland Islands, Gibraltar, St. Helena) remain outside the KP. Their Customs officers have been instructed to detain any rough diamond shipment imported from or exported to a KP participant and inform the GDO.

The numbers of KP certificates verified for imports and issued for exports are shown in table 6. Only 6 of the issued KP export certificates have been based on conclusive evidence.

**Table 6: KP certificates for imports and exports via the UK.**

| Period | KP certificates verified | KP certificates issued |
|---|---|---|
| 2003 | 447 | 1774 (from February) |
| 2004, till 30 June | 228 | 965 |

Source: GDO.

The average shipment size of imports into the UK was approximately 200,000 carat in 2003,[89] which is almost 20 times bigger, on average, than Belgium imports. De Beers ships very large quantities of rough diamonds at a time. The Belgium sector is not dominated by one single company. The average shipment size of UK exports was 25,000 carat, considerably lower than that of imports.[90] This is probably because exports are sorted into smaller shipments with a more homogenous composition.

Regarding the supervision of inspections, both import and export, by the European Commission, the involvement and opinion of the Commission described in the chapter on imports and exports via Belgium also applies to the UK (see page 23).

## 5.3 Transit procedures

Transits through the UK to other KP participants outside the EU are extremely rare. Such a transit has happened only once since the start of the KPCS.

More frequently a shipment containing rough diamonds, destined for another EU country, enters the EU via the UK. In this case KP and import clearance procedures will always be performed in the UK, which makes administration easier. Hence, there are no transits from the UK to other EU countries involving diamonds that have not passed customs clearance yet. In theory, this procedure applies even if imports are destined for another member state that has a Community Authority (currently Belgium only). The same goes for exports. If a company from another EU country, which is not affiliated to

[89] 90.7 million carat divided by 447 shipments.
[90] 47.4 million carat divided by 1,774 shipments.

a European Commission accredited bourse wants to export via the UK, conclusive evidence is requested, and the goods are inspected and sealed in the UK on the premises of an export agent in the UK. Export clearance will be affected in the UK too. Until now, the only EU countries that have imported rough diamonds via the UK are Ireland and Sweden. Only France exported via the UK.

### 5.4 Stock declarations and pre-2003 diamond stocks

The GDO requested diamond stock declarations as of 31 January 2003 from companies' independent auditors before any KP certificate could be issued to them. It also reserved the right to inspect stocks itself to verify the declared figures. The GDO then wrote back to the companies informing them that their stocks were in effect legally imported under the provisions of EC Regulation No. 2368/2002. First-time exporters are still required to produce this statement for the GDO, so that baseline data is available for each exporter. The GDO could not tell how many of the KP certificates it issued concerned shipments containing diamonds from stocks pre-dating February 2003.

In their stock declarations, companies have to specify the carat weight, value and location of all rough diamonds that they own or hold. This includes stocks owned by the company or its subsidiaries but held elsewhere in the EU, and stocks held by the company or its subsidiaries but owned by other EU-based companies. These data are supplied to the European Commission to allow for cross matching data from other Community Authorities and avoid double counting.

### 5.5 Irregularities and sanctions

Since the start of the new import and export regime in 2003, few irregularities have been discovered. In 2003, in three cases goods arrived without a KP certificate. In all three cases the exporting country provided a KP certificate in retrospect, once the UK had confirmed through physical inspection that the goods matched the details on the invoice. Currently one case is under investigation due to an attempt to export rough diamonds without a KP certificate. The investigation is lead by Her Majesty's (HM) Customs and Excise. Two cases of minor irregularities have concluded with the companies involved received an official warning letter from HM Customs and Excise.

### 5.6 Disclosure of KP statistics

The GDO provided a full list of all KP certificates that were inspected and issued in the UK in 2003 and in January to April of 2004. The first official KP export certificate issued in the UK dates from 13 February 2003, one day after the decision to start the application of the import and export regime was published. Inspection of KP certificates for imports had already started in January 2003.

The KP statistics mention the certificate number, date of issue, country of provenance or destination, Harmonised System code,[91] carat weight and value in US$ for each shipment. Japan did not declare values until November 2003. The total value of shipments from Japan in 2003 is therefore not correct, but the total value of imports

[91] See page **Fout! Bladwijzer niet gedefinieerd.** for an explication of Harmonised System codes.

from all countries is not substantially affected. In the case of a single known origin, the records also mention the country of origin. If the diamonds come from more than one country of origin, or if the origin is unknown, the origin-field contains one of the following denominations: Mixed, U/K, N/K, n/a, **********.

### 5.7 UK imports

The data on extra-EU imports into the UK for 2003 has been compiled into an overview by country of provenance (see table 7). The last column indicates which percentage (of carat weight) of imports from each country was also declared as originating from that country. In other words, it indicates which percentage of imports was produced in the country of provenance itself.

**Table 7: UK extra-EU rough diamond imports 2003 by country of provenance, based on KP certificates.**

| Country of provenance | Carat | Value (US$) | O = P* (%) |
|---|---|---|---|
| Australia | 21,691,916 | 318,719,279 | 100 |
| Botswana | 28,133,271 | 2,110,860,441 | 95 |
| Canada | 9,009,214 | 995,078,685 | 100 |
| Chinese Taipei | 415 | 34,955 | - |
| Congo, Rep. of[92] | 529,572 | 7,062,878 | 100 |
| D. R. Congo | 2,247,493 | 30,976,565 | 100 |
| Hong Kong | 430 | 19,477 | - |
| India | 2,301,702 | 975,708 | - |
| Israel | 310,746 | 1,407,411 | - |
| Japan | 11,459 | 186,979 | - |
| Korea | 2,750 | 99,701 | - |
| Namibia | 1,186,083 | 367,008,093 | 90 |
| Russian Federation | 14,479,265 | 641,408,728 | 76 |
| Sierra Leone | 1,112 | 375,111 | 44 |
| South Africa | 10,245,748 | 704,076,781 | 90 |
| Switzerland | 403,292 | 24,265,943 | - |
| Tanzania | 186,558 | 26,118,040 | 88 |
| USA | 57,148 | 1,408,196 | 23 |
| **Total** | **90,798,174** | **5,230,082,970** | **90** |

* Origin of imports = provenance (% of carat weight). Source: UK GDO. Calculations by SOMO.

Table 7 shows that rough diamond imports into the UK come from a limited range of countries and consist mainly of a few concentrated flows. Approximately 90% of imports come from just five countries: Botswana, Australia, Russia, South Africa and Canada. The large majority of these rough diamond imports were produced in the countries of provenance themselves.

[92] According to the GDO, these imports were from the DRC, not from the Republic of Congo.

It seems strange that the UK accepted thousands of carats of rough diamond imports from Congo Brazzaville throughout 2003, which were all declared as originating in Congo Brazzaville itself, while the country does not have any substantial diamond production. According to the GDO, all these imports arrived and originated from the DRC. The Republic of Congo was mentioned incorrectly as the country of origin and provenance. These are errors in the KP certificates data and the UK did not import any rough diamonds from the Republic of Congo.[93]

The DRC and Sierra Leone are potential sources of conflict diamonds and therefore 'sensitive countries'. Imports from the DRC were large, but imports from Sierra Leone were rather small. There were no imports from Angola, or from other sensitive African countries like Ghana and the Central African Republic, that may be involved in the trade of conflict diamonds. Exports from the Russian Federation, consisting for 24% (over 3 million carat) of exports with mixed or unknown origin, might also need a close watch.

[93] Communication with C. Wright, 5 August 2004.

### 5.8 UK exports

Table 8 shows a similar overview for KP exports from the UK. Export flows were also concentrated, with over 75% going to India and a further 10% to Israel.

**Table 8: UK extra-EU rough diamond exports February-December 2003 by country of destination, based on KP certificates.**

| Country of destination | Carat | Value (US$) |
|---|---|---|
| Australia | 5,465 | 106,596 |
| Botswana | 296 | 16,169 |
| Brazil | 500 | 1,900 |
| Canada | 8,146 | 602,220 |
| Czech Republic | 932 | 26,555 |
| Hong Kong | 509,955 | 73,946,359 |
| India | 36,657,614 | 1,450,897,771 |
| Israel | 4,791,035 | 819,860,851 |
| Japan | 65,239 | 19,184,651 |
| Korea, Rep. Of | 18,756 | 623,527 |
| Mauritius | 11 | 1,821 |
| Poland | 1,408 | 83,871 |
| Russian Federation | 23,715 | 15,491,360 |
| Slovenia | 809 | 26,648 |
| South Africa | 616,741 | 305,617,107 |
| Sri Lanka | 63 | 10,717 |
| Switzerland | 1,130,547 | 166,346,694 |
| Taiwan | 16,537 | 371,537 |
| Thailand | 58,766 | 11,299,914 |
| UAE | 1,656,633 | 51,373,263 |
| Ukraine | 221,034 | 4,985,795 |
| USA | 1,608,852 | 147,536,179 |
| **Total** | **47,393,055** | **3,068,411,506** |

Source: UK GDO. Calculations by SOMO.

Total exports were much lower than imports due to intra-EU trade, which is not included in KP statistics. The GDO provided other data on intra-EU trade. Because these are no KP statistics, they do not mention countries of origin.

The UK imported[94] a total of 2.0 million carat from EU countries during February to December 2003, of which more than 60% from Belgium. In the same period, the total intra-EU exports from the UK were 57.7 million carat, resulting in net exports of 55.7 million carat. About 99% of intra-EU exports from the UK went to Belgium. Statistics on intra-EU trade for January to April 2004 show that imports from Italy, France and Spain to the UK decreased more than 90%, to less than 2,000 carat each for the four-

[94] Strictly speaking, movements of rough diamonds within the EC are no imports, because the EC is a single market. However, 'imports' here refers to all movements of rough diamonds from other countries to the UK, including from other EU member states. The same applies to exports.

month period. This suggests that rough diamonds from outside the EU are increasingly being imported directly into the UK. On the other hand, imports from Germany are increasing strongly and amounted to over 400,000 carat for January to April 2004. Imports from Ireland are also substantial at 70,000 carat in 4 months and do not show a large increase or decrease.

Combining KP and intra-EU trade data, total rough diamond exports from the UK exceeded imports by some 12 million carat[95] in 2003. The reasons for this negative trade balance are not known.

## 5.9 Countries of origin

Table 9 provides a combined overview of imports and exports by country of origin. The category 'Mixed origin' also includes the shipments of which the origin was declared to be unknown. The value of diamonds produced in Ghana is unknown because they were all imported via Japan, which did not declare values until November 2003. The column labelled 'P = O' shows what percentage (of carat weight) of diamonds originating from each country was directly imported from that country. It is different from the column 'O = P' in table 7. The high percentages indicate that diamonds of known and unmixed origin were virtually always shipped directly to the UK, without passing through other countries.

**Table 9: UK extra-EU rough diamond imports (January – December) and exports (February – December) in 2003 by country origin, based on KP certificates.**

| Country of origin | Imports | | P = O* | Exports | |
|---|---|---|---|---|---|
| | Carat | Value (US$) | % | Carat | Value (US$) |
| Angola | - | - | - | 80 | 115,606 |
| Australia | 21,627,878 | 313,279,269 | 100 | 147,719 | 224,834 |
| Botswana | 26,647,948 | 2,001,042,779 | 100 | 1,282 | 48,496 |
| Canada | 9,073,399 | 1,000,296,500 | 99 | 2,946 | 136,818 |
| Congo, Rep. of | 529,572 | 7,062,878 | 100 | - | - |
| D. R. Congo | 2,247,755 | 30,978,005 | 100 | 2,161,443 | 29,555,657 |
| Ghana | 2,882 | Unknown | - | 31 | 7,804 |
| Namibia | 1,066,834 | 328,216,169 | 100 | 1,148 | 26,178 |
| Russian Federation | 11,240,222 | 426,900,728 | 97 | 11,176 | 66,924 |
| Sierra Leone | 489 | 138,735 | 100 | 496 | 148,931 |
| South Africa | 9,185,560 | 634,087,878 | 100 | 14,661 | 1,046,393 |
| Switzerland | 8 | 12,780 | 100 | 10 | 2,134 |
| Tanzania | 277,038 | 34,833,468 | 59 | 43,855 | 4,895,845 |
| UK | 1,064,921 | 72,546,243 | - | - | - |
| USA | 13,247 | 396,094 | 100 | - | - |
| Mixed origin | 7,820,422 | 380,291,444 | - | 45,008,210 | 3,032,135,885 |
| **Total** | **90,798,174** | **5,230,082,970** | **90** | **47,393,055** | **3,068,411,506** |

* Provenance of imports = origin (% of carat weight). Source: UK GDO. Calculations by SOMO.

[95] This figure still excludes extra-EU rough diamond exports before 13 February 2003 and intra-EU trade in January 2003.

Rough diamond supply chains, from the mine to the UK, are very short. Diamonds of mixed origin only account for 9% of total imports.
Most imports, 91%, come from a single, known country of origin and 90% were also directly imported from this country of origin to the UK. This means that rough diamond importers in the UK, mainly the DTC/De Beers, have very good knowledge of the source of the diamonds and the legitimacy of this source.

On the other hand, 95% of UK exports are of mixed origin. This is because the rough diamonds are sorted before they are re-exported. Table 9 shows that diamonds from the DRC are a notable exception, as they are mainly exported to other KP participants without being mixed with diamonds from other countries. Even when rough diamonds are not traded between different companies within the UK, it becomes less easy to trace them back to their original source because of the mixed origin of exports.

The tracing of diamonds becomes somewhat more complex for intra-EU exports too, which make up over half of total exports.[96] Such (intra-EU) transactions, which do not include KP certificates with the origin of the diamonds, take place with a single KP participant (the EU). The sorting and mixing of rough diamonds after import into the UK reinforces the need for a well-functioning system of industry self-regulation. Without such a system, it becomes impossible to guarantee that diamonds originate from legitimate sources and are not mixed with smuggled diamonds.

## 5.10 Industry self-regulation in the UK

The London Diamond Bourse and Club in the UK has almost the same Code of Conduct for the trade in rough diamonds as the bourses in Antwerp (see Appendix 8). However, in contrast to the situation in Antwerp, the members of the Bourse are individuals only, not companies as a whole. These individuals take responsibility and are accountable for the behaviour of their company. Only one company trading in rough diamonds and established in the UK has no employees affiliated to the Bourse. The Bourse in London does not have members from outside the UK.

The listing of the Bourse in Annex V of the European Community Regulation in June 2003 was followed by prolonged negotiations between the Bourse and the GDO. The system of industry self-regulation has only been fully in place since March 2004. Bourse members are implementing the Code of Conduct and several audits of the warranty records issued and received have already been carried out. De Beers has been audited for 2003, for instance. All Bourse members are required to submit a written confirmation of compliance with the Code of Conduct, together with a letter of confirmation from the company’s independent auditor. The Bourse relies on this information to verify the compliance of its members and provides the information to the GDO. Unlike their Belgian counterparts, companies in the UK are not required to declare changes in the weight, value and classification of rough diamonds as a result of processing. According to the GDO, no processing of rough diamonds takes place in the UK.

[96] See note 94.

Although the GDO has yet to receive the information from the bourses on compliance and audits of the bourse members, the GDO has good insight in the functioning of the system and is reasonably satisfied with it. A full assessment of how the system functions is not yet possible. Any discrepancies revealed by the inspections are reported immediately to the European Commission. In the previous chapter, it was mentioned that for the Commission it was also too early to comment on how well the system is working. The European Commission expects the required information will become available later in 2004. The first annual report of the GDO on self-regulation is currently being drafted and will be issued in September 2004.

## 5.11 Conclusions

As in Belgium, the UK import and export procedures, as well as stock declarations, are clear and the European Commission has good insight into them. However, the UK does not inspect all shipments and in that respect the system is weaker. That the UK, in contrast to Belgium, has decided to disclose detailed records of the issued and verified KP certificates, should be welcomed. This openness increases the transparency of the system. According to the KPCS, it seems the Ministry of Foreign Affairs and Customs are doing everything that can be expected of them, within their budget lines, to prevent the import and export of conflict diamonds via London. However, the system may be considered weaker than in Belgium because not all shipments are inspected.

The UK is ahead of Belgium with regard to the implementation of industry self-regulation. The warranty record audits received and issued by diamond companies has started, however full implementation dates only from March 2004 and therefore a conclusion on the functioning of the system is not yet possible. Currently the Commission does not have a sufficient insight into this matter either. Audits should be completed soon in order to sustain the credibility of the system.

The conclusions found in Belgium, and the two notable weaknesses outlined in that case, are also applicable here. Firstly, diamonds may be declared as coming from unregistered pre-2003 stocks of companies in other EU countries. The registration of pre-2003 stocks in other countries is not a responsibility of the UK government, though. The UK can make requests, which they have already started to do, for diamond stock declarations from domestic companies, but only from domestic companies. This is a positive initiative and supports the verification of correct implementation of the system of warranties. Secondly, warranties issued by bourse members in other EU countries are generally considered as reliable as those issued by members of the Antwerp and London bourses. Yet, the European Commission only supervises the Antwerp and London bourses, which makes systems in other countries not as reliable as it will be in the UK or Belgium once it is fully implemented.

# 6 The Netherlands

## 6.1 The KPCS[97]

There are only a few Dutch diamond companies trading in rough diamonds. The companies are grouped into two organizations: the Amsterdam Diamond Bourse and the Dutch Diamond Manufacturers Association (DDMA).[98] The most important company for jewellery diamonds is, by far, Royal Asscher. There are also some diamond tool companies in the Netherlands, dealing in tools that contain industrial diamonds including drills, saws and spindles. However, the rough diamond trade in the Netherlands is very small so there is no need for a separate entry point. The overseas territories of The Netherlands (Netherlands Antilles) are not covered by the KPCS. Imports of rough diamonds from the Netherlands Antilles into the EU are therefore not allowed.

The Dutch Ministry of Economic Affairs is confident that the Kimberley Process functions in The Netherlands without any major problems.[99] The Dutch Ministry of Economic Affairs, which is the department responsible for the diamond trade, is not actively involved with the Kimberley Process and the implementation of the European Community regulation. The person responsible for the KP, who is a member of the committee installed by the European Commission, can only dedicate two days a year to it.

The Ministry regularly informs Dutch diamond companies, diamond tool companies and interested organizations about the KP and the EU regulations through a mailing list. The majority of addresses are diamond tool companies.[100] The Dutch Ministry indicates that the KPCS is a considerable burden for the tool companies. Some of them export small quantities of rough diamonds and have to follow the conclusive evidence procedure.

Van Alphen International is one of the main diamond tool companies in the Netherlands. The company buys its rough diamonds on the EU market, mainly in Belgium, and does not directly import diamonds from Africa. However, Van Alphen does directly export rough industrial diamonds to countries outside the EU, for example to Switzerland. Many small diamond tool-making companies are located in Switzerland and supply tools to the Swiss watch industry. Shipments to such companies may consist of a few stones only, with a value below 1000 Euro. For each shipment Van Alphen presents the goods at the Diamond Office in Antwerp for inspection. Further customs procedures are handled in The Netherlands. The costs for this process, which are

[97] This section is based on interviews with W. Keizer, 8 June & 20 July 2004, E. Blik, 22 June 2004, and E. Asscher, 23 June & 20 July 2004; correspondence with W. Keizer, 9 June 2004.
[98] In Dutch: Vereniging Beurs voor den Diamanthandel and Algemene Juweliers Vereniging.
[99] Minister van Buitenlandse Zaken, Beantwoording van vragen van de leden Fierens en Koenders over handel in 'bloeddiamanten' (2004, 14 May). http://www.minbuza.nl/20040514-152704-A.
[100] The mailing list contains some 20 addressees. According to the Ministry, the main importers of rough industrial diamonds are the tool-companies Van Alphen International, Diamond Tools Europe, Hatech, Heger, Sicom Diamond Tools, and Sub Micron Tooling. Other tool companies that could be recognized from the address list are Carat, Diacom, Iddi, Lunzen, Toolbox and Van Voorden.

accounted for in the price of the shipment, are some 300 Euro. As a consequence, small shipments to customers outside the EU are not feasible anymore.[101]

Van Alphen sees the trade in diamonds as more complex with the workings of the KPCS, but believes the KPCS does not provide meaningful protection against conflict diamonds. For the inspections at the Diamond Office, the company has to present the goods for export only. It does not have to produce invoices for the procurement of the diamonds,[102] and indicates that it would be impossible to demonstrate the relation between such invoices and the diamonds for export anyway. The reason is that the industrial diamonds purchased by the company are worked and therefore change in weight, form, value and sometimes classification.

For example, stones of approximately 0.5 carat are processed into instruments for the offset industry. During this process, the stones lose more than half of their weight. Part of this loss in weight is sometimes recovered as diamond powder but the rest disappears. Hence, records of warranties received do not match those of warranties issued plus the net change in diamond stocks. In Belgium, companies must declare all changes in weight and classification of diamonds as a consequence of processing, so that the net change in rough diamond stocks can still be verified. In The Netherlands, companies do not keep track of this information and Van Alphen remarks that it would be unable to do this because of the large administrative burden.[103]

## 6.2 Trade statistics for The Netherlands

The trade statistics in this chapter are in a different format than the KP statistics for the UK and the more limited trade data for Belgium, due to the type of statistics available. The Dutch Central Agency for Statistics (CBS) publishes two types of international trade statistics. The first type contains data for all individual countries and classifications of goods, but depends on the voluntary reporting of companies for imports and exports up to a certain value. These figures are therefore not fully reliable and do not include all trade. The second type includes some countries and classifications grouped together in larger categories and covers all trade. The second type has been used for this report. [104]

Table 10 shows the Dutch imports and exports of rough diamonds for the period 1996-2003. A distinction is made between the classifications rough industrial diamonds, and unsorted plus non-industrial rough diamonds. Industrial rough diamonds are a large proportion of total imports and exports, much larger than for Belgium or the UK. Note

[101] Interview with H. Deuschle, Van Alphen International, 21 July 2004.
[102] If the information of the Diamond Office is correct, Van Alphen has to submit at least an invoice containing a warranty for the export of the goods. According to the Dutch Ministry of Economic Affairs, the company is affiliated to a diamond bourse through a subsidiary in Antwerp.
[103] Interview with H. Deuschle, Van Alphen International, 21 July 2004.
[104] In these statistics, the classifications 7102.10 (unsorted diamonds) and 7102.31 (rough non-industrial diamonds) are combined into group 710282, and classification 7102.21 (rough industrial diamonds) forms the separate group 710281. Note that the first type of statistics was probably used for the report: Fatal Transactions (2001). *Conflict Diamonds: Crossing European Borders?* Hence, figures in that report are lower.

also that the Dutch trade volumes are several thousand times smaller than Belgian trade volumes (the Dutch figures are in single carats, not thousands).

**Table 10: Dutch rough diamond imports and exports 1996-2003 by category in carat (including intra-EU trade, equivalent of HS codes 7102.21 and 7102.10/7102.31).**

| | **Import** | | | **Export** | | |
|---|---|---|---|---|---|---|
| | **Industrial** | **Unsorted/ non-ind.** | **All rough** | **Industrial** | **Unsorted/ Non-ind.** | **All rough** |
| 1996 | 2,748 | 16,884 | 19,632 | 11,463 | 9,817 | 21,280 |
| 1997 | 10,447 | 23,461 | 33,908 | 85,733 | 18,867 | 104,600 |
| 1998 | 6,109 | 30,554 | 36,663 | 22,308 | 9,953 | 32,261 |
| 1999 | 2,507 | 32,192 | 34,669 | 6 | 14,665 | 14,671 |
| 2000 | 11,084 | 21,260 | 32,344 | 18,870 | 13,935 | 32,805 |
| 2001 | 17,664 | 4,573 | 22,237 | 144,692 | 30,993 | 175,685 |
| 2002 | 57,422 | 6,859 | 64,281 | 6,465 | 5,518 | 11,983 |
| 2003 | 30,338 | 8,781 | 39,119 | 4,955 | 8,691 | 13,646 |
| **Total** | **138,319** | **144,564** | **282,853** | **294,492** | **112,439** | **406,931** |

Source: CBS and calculations by SOMO.

The imports and exports show an extremely irregular pattern. The exports of rough industrial diamonds are highly volatile, with very high peaks in 1997 and 2001 but virtually no exports in 1999. A possible explanation is the occasional export of large amounts of boart or diamond powder. Boart consists of small pieces of diamonds that are removed and recollected when rough stones are processed. This may have been gathered during long periods and occasionally exported in large quantities, resulting in odd, concentrated trade flows. Similarly, diamond powder is usually produced and shipped in very large quantities, up to millions of carat. Although diamond powder has another HS code, exports of powder might accidentally have been classified as rough industrial diamonds. [105]

Curiously, the total exports of boart are more than twice as large as the industrial rough diamond imports over the same period.  Again, one possible explanation is that large quantities of diamond powder were imported under another HS code, but exported as rough diamonds. The difference may also be caused by a large decrease in domestic stocks, undeclared diamond imports or other statistical errors. Exports of unsorted and non-industrial rough diamonds, the other category, are almost as large as imports over the period 1996-2003. The quantity of diamonds polished by Asscher (and a few minor companies) is relatively small, so these figures are more likely to be correct.

Table 11 shows imports of rough diamonds to The Netherlands for the period 1999-2003 for main countries and country groupings. The majority were intra-EU imports that did not require a KP certificate. No rough diamonds have been imported from Russia since at least 1996. As explained above, the diamonds that Royal Asscher imports from Russia and South Africa are already polished. Direct imports from Central, East and Southern Africa, one possible source of conflict diamonds, have not

[105] Interview with H. Deuschle, Van Alphen International, 21 July 2004.

been substantial during the last five years. There have been substantial imports from West Africa in 2003 only. However, the variation in imports from individual countries is so high over these years that no conclusions can be drawn about changes in trading patterns on the basis of these data. Variation in total imports is also very high.

**Table 11: Dutch rough diamond imports 1999-2003 by country in carat (including intra-EU trade, equivalent of HS codes 7102.10, 7102.21 and 7102.31).**

| Country | 1999 | 2000 | 2001 | 2002 | 2003 |
|---|---|---|---|---|---|
| 001 France | 194 | 197 | - | - | - |
| 004 Germany | 2,148 | 1,251 | 5,022 | 7,809 | 4,856 |
| 005 Italy | 374 | 3 | 5 | 80 | 2 |
| 006 UK | 95 | 98 | 43 | 291 | 57 |
| 007 Ireland | - | - | - | 244 | - |
| 017 Belgium & Luxembourg | 30,328 | 23,864 | 13,666 | 49,061 | 26,665 |
| 039 Switzerland | 658 | - | - | - | 69 |
| 388 South Africa | - | - | 135 | - | - |
| 924 Western Africa excl. Nigeria | 117 | - | - | - | 5,161 |
| 925 Central, East & Southern Africa | 136 | - | - | - | 11 |
| 400 US | 476 | 191 | 1,075 | 6,540 | 1,624 |
| 624 Israel | - | 6,000 | 169 | 37 | - |
| 664 India | - | 693 | - | 63 | 649 |
| 728 South Korea | - | - | 1,352 | 1 | - |
| 732 Japan | 6 | - | 539 | - | - |
| Other countries | 167 | 47 | 231 | 155 | 25 |
| Total | 34,699 | 32,344 | 22,237 | 64,281 | 39,119 |

Source: CBS.

Below a similar overview is provided of Dutch exports of rough diamonds in table 12, which show some highly volatile flows as well. Most exceptional is the export of over 100 thousand carat (of industrial rough diamonds) to Canada in 2001. The reason for the irregular and anomalistic trading patterns is not known. In 2003, only a tiny proportion of exports went directly to countries outside the EU. Intra-EU trade does not require a KP certificate.

**Table 12: Dutch rough diamond exports 1999-2003 by country in carat (including intra-EU trade, equivalent of HS codes 7102.10, 7102.21 and 7102.31).**

| Country | 1999 | 2000 | 2001 | 2002 | 2003 |
|---|---|---|---|---|---|
| 001 France | 1,022 | 1,253 | 751 | 2,946 | 2,832 |
| 004 Germany | 4,096 | 4,324 | 26,514 | 1,682 | 4,877 |
| 005 Italy | 120 | 25 | 42 | 824 | 504 |
| 006 UK | 682 | 1,951 | 5,475 | 331 | 3,245 |
| 008 Denmark | 31 | 7 | 2 | 2 | 294 |
| 010 Portugal | 5,323 | 5,127 | - | - | - |
| 017 Belgium & Luxembourg | 1,247 | 430 | 654 | 1,504 | 1,321 |
| 038 Austria | 530 | 211 | 3,440 | 26 | 40 |
| 924 Western Africa excl. Nigeria | 117 | - | - | - | 516 |
| 400 US | - | 16,606 | 28,913 | 3,749 | 1 |
| 404 Canada | - | - | 108,081 | - | - |
| Other countries | 1,503 | 2,871 | 1,813 | 919 | 16 |
| **Total** | **14,671** | **32,805** | **175,685** | **11,983** | **13,646** |

Source: CBS.

The data from the CBS and the GDO on trade between The Netherlands and the UK are not in agreement. The GDO reports exports to The Netherlands of 3,430 carat for the period February to December 2003, whereas the CBS reports imports from the UK of 57 carat only in 2003. Hence, most of the exports from the UK to The Netherlands are not covered by reported imports. Similarly, the CBS reports exports to the UK of 3,245 carat, whereas the GDO reports imports from The Netherlands of 1,095 carat only. If the difference in weight was not traded in January 2003, reported exports are much larger than reported imports in the other direction too. The explanation for these discrepancies is not known. Although the differences are small in absolute terms, it remains strange that diamonds seem to ‘disappear’ within Europe.

### 6.3 Industry self-regulation[106]

The Amsterdam Diamond Bourse and the DDMA do not supervise the full implementation of the system of industry self-regulation among their members. They only provide Dutch diamond companies with information about the system and ensure a warranty is included with each invoice. Dutch companies trading in rough diamonds do not submit audit reports of warranties received and given. The bourse is expected to report any irregularities to the Dutch authorities, but so far none have occurred. The Ministry of Economic Affairs does not know what the Amsterdam Diamond Bourse or the DDMA are doing to implement the system of industry self-regulation.

Royal Asscher is the largest non-industrial rough diamond trader in the Netherlands. Today Royal Asscher imports rough diamonds through Belgium only. The company imports diamonds from Russia and South Africa as well, but these are directly purchased from the mine and polished in those countries before being exported. Royal Asscher re-exports the majority of its rough diamond imports to other countries where

[106] This section is based on interviews with W. Keizer, 8 June & 20 July 2004, E. Blik, 22 June 2004, and E. Asscher, 23 June & 20 July 2004; correspondence with W. Keizer, 9 June 2004.

they are polished. The amount of rough diamonds polished by Royal Asscher in the Netherlands is relatively small as it mainly re-polishes already polished diamonds.

Royal Asscher called for its in-house accountants to audit and certify its pre-2003 rough diamond stocks. The Ministry does not request or receive stock declarations. Audits of warranty records after the introduction of the System of Warranties have not yet been performed. Royal Asscher also does not report on its implementation of the system to the Dutch or Belgian authorities.

## 6.4 Conclusions

The Netherlands is not a very important country with regards to trade in rough diamonds. The limited resources dedicated to the KPCS are therefore understandable. However, it is regrettable that the Dutch Ministry of Economic Affairs did not register pre-2003 diamond stocks, which would have been a small effort.

The diamond trade data for The Netherlands reveal some strange patterns. Firstly, trading patterns for all categories of rough diamonds are very irregular and anomalistic. These effects may be explained by incidental large exports, but this is not clear. Secondly, exports of industrial diamonds tend to be much larger than imports. It is not clear whether this is caused by large decreases in domestic diamond stocks, undeclared diamond imports or statistical errors. Furthermore, the data from the CBS and the GDO on trade between The Netherlands and the UK do not correspond.

It is striking that the Amsterdam Diamond Bourse or DDMA do not require audits of warranties received and issued from companies trading in rough diamonds. It is striking too that Asscher has not yet been audited which underlies the fact that Dutch companies have not fully implemented the System of Warranties.  That the Dutch industry organizations ensure warranties are included on every invoice without verifying that they are valid or correct is, of course, insufficient. Like in Belgium, there are no guarantees that the system is functioning correctly and effectively and audits should be carried out soon, covering the whole period from January 2003 onwards, in order to sustain the credibility of the system.

# 7 KP statistics for the EU

## 7.1 Introduction

This chapter examines the KP statistics for the European Community as a whole. The statistics format in this chapter is similar to that in the chapter about the UK. An analysis of the EU trade statistics shows some interesting patterns in rough diamond trade flows. The chapter provides more insight in the reliability of the data on KP certificates, the functioning of the KPCS as a whole and its implementation in the EU.

## 7.2 Disclosure of KP statistics

Before the start of the KPCS and the Council Regulation the EU did not collect aggregate statistics on trade in rough diamonds. The Community Authorities in the respective countries now submit quarterly diamond trade statistics to the European Commission, which is required for statistical reports to the KP Working Group on Statistics. However, these data are provided on the condition that they are not publicly disclosed.

The disclosure of trade statistics is a sensitive issue. In addition, some countries trade mainly with the EU, and the disclosure of EU statistics would therefore disclose trade statistics of those countries too. Although nothing prevents individual member states from publishing their statistics, the UK and Belgium were equally reluctant to release statistics on rough diamond trade. Nonetheless, the disclosure of KP statistics in the EU has recently been discussed and reconsidered. The outcome of this discussion is that aggregate data at the level of the EU has become publicly available. The UK also decided to disclose its KP statistics. The Belgian government, however, did not change its position. It points out that the EU as a whole is a single KP participant and therefore considers national statistics irrelevant.[107] In previous years, Belgium disclosed detailed trade statistics, which brought about questions and criticism, whilst less transparent countries did not attract such attention.

The EU provides aggregate statistics for each unique combination of country of provenance or destination, country of origin, and Harmonised System code.[108] For each of these categories the carat weight and value in US$ is mentioned. All data are based on the information contained in KP certificates. Errors in the certificates, such as the declaration of the European Community as origin of the diamonds, were not corrected. These include the omission of a declared value for most imports from Japan.

## 7.3 EU imports

The data on aggregate EU imports for 2003 have been compiled into an overview by country of provenance (see table 14). Similarly to the overview for the UK, the last column indicates which percentage of imports was produced in the country of

[107] Communication with F. Coosemans, 27 July 2004.
[108] See page **Fout! Bladwijzer niet gedefinieerd.** for an explication of Harmonised System codes.

provenance itself. The overview shows that the EU as a whole imported rough diamonds from a broader range of countries than the UK alone and flows are less concentrated. However, the five major diamond producing countries (Botswana, Australia, Russia, DRC and South Africa) still account for two thirds of all rough diamond imports.

**Table 14: European Community rough diamond imports in 2003 by country of provenance, based on KP certificates.**

| Country of provenance | Carat | Value (US$) | O = P* (%) |
|---|---|---|---|
| Angola | 896,235 | 184,210,167 | 100 |
| Armenia | 105,063 | 4,160,305 | 13 |
| Australia | 30,962,339 | 376,748,430 | 100 |
| Botswana | 28,134,169 | 2,110,889,308 | 95 |
| Brazil | 157,728 | 15,991,986 | 90 |
| Canada | 9,275,617 | 1,028,345,197 | 100 |
| Central African Republic | 302,372 | 44,308,800 | 99 |
| China[109] | 7,389,609 | 161,550,443 | 0 |
| Chinese Taipei | 647 | 43,219 | - |
| Congo, Rep. of | 1,587,265 | 17,150,352 | 100 |
| D.R. Congo | 22,422,742 | 481,916,581 | 100 |
| Ghana | 675,915 | 16,283,092 | 100 |
| Guinea | 529,884 | 38,348,556 | 94 |
| Guyana | 218,718 | 16,421,904 | 100 |
| Hungary | 506 | 46,926 | - |
| India | 10,862,636 | 129,043,917 | 17 |
| Israel | 14,788,378 | 1,272,477,502 | 15 |
| Japan | 33,611 | 1,918,746 | 3 |
| Korea, Rep. of | 4,123 | 198,621 | - |
| Laos | 195 | 17,598 | - |
| Lesotho | 310 | 2,666,791 | 100 |
| Mauritius | 9,035 | 736,132 | 16 |
| Namibia | 1,199,925 | 368,792,382 | 91 |
| Russian Federation | 29,487,178 | 730,917,979 | 54 |
| Sierra Leone | 471,335 | 69,159,358 | 100 |
| South Africa | 11,063,840 | 1,037,999,898 | 90 |
| Sri Lanka | 493,249 | 61,322,749 | - |
| Switzerland | 3,525,969 | 285,052,246 | 2 |
| Tanzania | 195,538 | 24,853,799 | 89 |
| Thailand | 438,527 | 48,033,767 | 2 |
| Togo | 87,144 | 4,594,000 | 100 |
| Ukraine | 3,878 | 72,855 | 8 |
| United Arab Emirates | 6,300,550 | 570,811,514 | - |
| USA | 2,381,770 | 138,486,127 | 0 |

[109] Hong Kong is mentioned separately in the KP statistics provided by the UK. Probably these are included in the trade with China for aggregate EU data.

| | | | |
|---|---|---|---|
| Venezuela | 5,513 | 299,830 | 100 |
| Vietnam | 5,211 | 273,794 | - |
| Zimbabwe | 26,871 | 2,217,000 | 100 |
| **Total** | **184,043,595** | **9,246,361,871** | **68** |

* Origin of imports = provenance (% of carat weight; - = none, 0 = negligible). Source: European Commission. Calculations by SOMO.

Because imports to Belgium and the UK are much larger than imports to other EU countries, the division of large and/or sensitive trade flows between Belgium and the UK is roughly clear. Imports from various countries are going predominantly to one of these two points of entry, not to both.

The UK receives 90% or more of the imports from Botswana, Namibia, South Africa and Canada into the EU. It also receives two thirds of the rough diamond imports from Australia. These are all major producer countries.

Belgium, on the other hand, must have received virtually 100% of the imports from Angola, Sierra Leone, the Central African Republic, Israel, China, the USA and the UAE. In addition, it must have received roughly 90% of imports from the DRC and Switzerland and 80% of imports from India. These include many non-producer countries that have an important role in the trade, processing and/or transport of rough diamonds.

Imports from Russia were more equally divided between Belgium and the UK. It is remarkable that almost half of the imports from Russia (46% or 14 million carat) were of mixed or unknown origin. Such a very large quantity of diamonds could not have been produced in Russia itself (see table 17) and needs a close watch because the sources may be suspicious. Of the 14 million carat, approximately 3 million arrived in London and the rest in Antwerp.

The GDO explained that the Republic of Congo was declared incorrectly as the country of provenance and origin of diamond imports into the UK; all these imports came from the DRC instead.

## 7.4 EU exports

Table 15 provides a similar overview of aggregate EU exports for 2003 by destination country. There were 38 different destination countries. Only three of these (Lebanon, Tunisia and Turkey) were KP participants that were later removed from the list. The absence of data for trade with other (temporary) participants means that there has not been any trade with those countries in 2003. Export flows for the EU as a whole were as concentrated as those of the UK, with 78% going to India, and a further 16% to Israel, China, and the UAE.

**Table 15: European Community rough diamond exports in 2003 by country of destination, based on KP certificates.**

| Country of destination | Carat | Value (US$) |
|---|---:|---:|
| Armenia | 336,339 | 108,919,740 |
| Australia | 27,844 | 2,392,395 |
| Belarus | 2,813 | 231,384 |
| Botswana | 11,722 | 3,840,422 |
| Brazil | 548 | 411,900 |
| Canada | 79,710 | 30,029,431 |
| China[110] | 7,912,897 | 712,901,549 |
| Chinese Taipei | 40,483 | 916,288 |
| Czech Republic | 3,477 | 39,134 |
| D.R. Congo | 7,576 | 302,688 |
| Guinea | 187 | 607,651 |
| Hungary | 4,140 | 281,228 |
| India | 130,442,391 | 4,694,840,081 |
| Israel | 12,207,995 | 2,652,286,272 |
| Japan | 95,115 | 22,410,462 |
| Korea, Rep. of | 37,089 | 1,201,249 |
| Laos | 29,047 | 1,425,492 |
| Lebanon | 15,578 | 3,538,111 |
| Malaysia | 19,332 | 3,345,209 |
| Mauritius | 91,273 | 11,245,630 |
| Namibia | 7,955 | 3,400,049 |
| Poland | 9,626 | 369,821 |
| Romania | 12,871 | 204,256 |
| Russian Federation | 30,727 | 16,839,200 |
| Sierra Leone | 5,552 | 1,273,102 |
| Slovenia | 1,690 | 101,461 |
| South Africa | 678,377 | 319,785,684 |
| Sri Lanka | 780,731 | 128,825,795 |
| Switzerland | 1,314,931 | 181,440,541 |
| Tanzania | 44,029 | 4,944,282 |
| Thailand | 1,297,610 | 207,606,118 |
| Tunisia | 2,409 | 482,806 |
| Turkey | 772 | 9,046 |
| Ukraine | 350,094 | 32,608,232 |
| United Arab Emirates | 7,315,907 | 212,380,492 |
| USA | 2,605,276 | 380,541,188 |
| Venezuela | 2 | 445 |
| Vietnam | 103,215 | 16,460,500 |
| **Total** | **165,927,327** | **9,758,439,334** |

Source: European Commission

[110] Hong Kong is mentioned separately in the KP statistics provided by the UK. Probably these are included in the trade with China for aggregate EU data.

## 7.5 Countries of origin

Table 16 provides a combined overview of EU imports and exports by country of origin. Similar to the overview for the UK, the column labelled 'P = O' shows what percentage (of carat weight) of diamonds originating from each country was directly imported from that country. It is different from the column 'O = P' in the table 7 and 16. The high percentages indicate that diamonds of known and unmixed origin were virtually always directly shipped to the UK, without passing through other countries.

The table contains some odd data, for example, the European Community and the USA also appear as countries of origin. The reason is that the participant issuing the respective KP certificate has mistakenly entered the country of provenance in the field for the country of origin in the case of the USA, and probably the country of destination in the case of the EC. Virtually all imports mentioning the European Community (UK or GB) as origin of the diamonds were from one large shipment from South Africa.

The European Commission's examination of individual KP certificate records suggests that exports with origin Cote d'Ivoire, South Korea and the UAE came from pre-KPCS stocks. These could be imports into the EU under the KPCS that took place before 11 February 2003, or pre-Kimberly stocks. The import and export regime was only officially applied in the EU after Council Regulation No. 254/2003 was adopted on 11 February. There were a total of 27 shipments to these three countries, of which 25 took place within two months after the adoption of this regulation. The explanation for the exports with declared US origin, which exceed imports declared to originate in the US, is similar. We can safely assume they came from those stocks.

The majority, 71% of imports came from a single, known country of origin and 68% of imports were also directly imported from this country of origin to the EU. These percentages are considerable lower for the EU as a whole than for the UK, implying that supply chains or transport routes to Belgium are longer and more complex. However, these percentages are still high and mean that rough diamond importers in the EU as a whole also have considerable knowledge about the source of their diamonds.

Exports from the EU, on the other hand, had 93% of shipments from mixed origin. This means that after rough diamonds were imported into the EU and sorted, mixed and traded, it becomes much more difficult to trace them back to their original source. A similar conclusion was reached for the UK alone, although in the UK rough diamonds are less often traded between companies. The inability to trace diamonds after they are imported into the EU reinforces the need for a well-functioning system of industry self-regulation in the EU.

**Table 16: European Community rough diamond imports and exports in 2003 by country origin, based on KP certificates.**

| Country of origin | Imports | | P = O* | Exports | |
|---|---|---|---|---|---|
| | Carat | Value (US$) | % | Carat | Value (US$) |
| Angola | 968,940 | 199,798,662 | 92 | 484,996 | 100,338,891 |
| Armenia | 13,889 | 1,680,647 | 100 | - | - |
| Australia | 30,896,861 | 370,949,779 | 100 | 5,747,512 | 100,073,343 |
| Botswana | 26,770,680 | 2,012,381,816 | 100 | 387,049 | 74,456,306 |
| Brazil | 142,017 | 12,241,986 | 100 | 5,258 | 4,844,889 |
| Canada | 9,344,521 | 1,034,383,239 | 99 | 713,064 | 188,067,448 |
| Central African Rep. | 298,469 | 43,878,621 | 100 | 11,364 | 1,756,374 |
| China | 24 | 1,188 | 100 | - | - |
| Congo, Rep. of | 1,622,547 | 21,679,840 | 98 | 13,700 | 1,002,351 |
| D.R. Congo | 22,428,456 | 483,071,661 | 100 | 2,533,710 | 82,514,624 |
| Cote d'Ivoire | - | - | - | 1,002 | 1,728,763 |
| EC | 1,054,008 | 66,113,870 | - | - | - |
| Ghana | 706,470 | 16,328,437 | 96 | 37,486 | 607,955 |
| Guinea | 500,508 | 37,213,968 | 100 | 13,471 | 19,356,914 |
| Guyana | 292,041 | 26,433,650 | 75 | 849 | 309,104 |
| India | 1,859,064 | 21,654,168 | 97 | 320,244 | 2,333,810 |
| Israel | 2,266,105 | 190,272,778 | 97 | 39,416 | 3,122,065 |
| Japan | 1,145 | 627,902 | 100 | - | - |
| Korea, Rep. of | - | - | - | 5 | 3,630 |
| Lesotho | 310 | 2,666,791 | 100 | - | - |
| Mauritius | 1,423 | 137,498 | 100 | - | - |
| Namibia | 1,103,833 | 337,895,654 | 98 | 160,828 | 1,988,460 |
| Russian Federation | 19,161,514 | 526,341,303 | 84 | 577,538 | 47,932,002 |
| Sierra Leone | 470,414 | 69,124,374 | 100 | 6,980 | 4,707,347 |
| South Africa | 10,479,118 | 1,031,043,135 | 96 | 842,966 | 293,816,428 |
| Switzerland | 74,753 | 1,953,692 | 100 | 10 | 2,134 |
| Tanzania | 286,018 | 33,569,227 | 61 | 44,029 | 4,944,282 |
| Thailand | 7,129 | 1,187,427 | 100 | - | - |
| Togo | 87,144 | 4,594,000 | 100 | - | - |
| Ukraine | 304 | 3,035 | 100 | - | - |
| UAE | - | - | 100 | 2,417 | 397,413 |
| USA | 3,159 | 153,231 | 100 | 4,311 | 1,670,850 |
| Venezuela | 5,513 | 299,830 | 100 | - | - |
| Zimbabwe | 26,871 | 2,217,000 | 92 | - | - |
| Mixed origin | 53,170,348 | 2,696,463,463 | - | 153,979,124 | 8,822,463,950 |
| **Total** | **184,043,595** | **9,246,361,871** | **68** | **165,927,327** | **9,758,439,334** |

*** Provenance of imports = origin (% of carat weight). Source: European Commission. Calculations by SOMO.**

It is interesting to compare country of origin import statistics with domestic production data from these same countries. It reveals an assessment of the credibility of the origin declarations. Table 17 provides an overview of imports into the EU and production data for a selection of countries, roughly ranked by production quantity. The import figures concern diamonds that are declared in these countries only. The production data are estimates and 1-2 years older than the trade data. They are therefore not fully reliable and comparable to imports in 2003. However, the table is still helpful to identify some declarations of origin that are likely to be incorrect. These misstatements need not be attempts to bring conflict or other illicit diamonds into international diamonds markets, as the majority of incorrect declarations are probably mistakes.

Total EU imports figures in 2003 were probably higher than world diamond production in that same year. This is not as strange as it may seem for several reasons. Firstly, diamonds may be imported into the EU, exported to a non-EU country, and imported again into the EU. The same diamonds may therefore be counted a multiple number of times as EU imports. Secondly, annual production might be supplemented with stock from previous years, but this effect is unlikely to be very large. Thirdly, the vast majority of all rough diamonds worldwide passes through London and/or Antwerp, so EU imports are close to total world production before adding the effect of multiple entries and stock changes.

Australia, Botswana, Russia, the DRC and South Africa are the five largest diamond production countries. Together they account for approximately 70% of total world production. Almost all rough diamonds produced in these countries are imported directly[111] into the EU.

In contrast, EU imports, which are known to originate in Angola are less than 20% of the annual production from this country. The reason for this relatively low quantity is not known. Perhaps diamonds from Angola are mixed with other diamonds before they arrive in Europe or their origin is declared as ‘unknown’, in which case they are counted as ‘mixed origin’ too. Or, part of these diamonds may be traded and processed in non-EU countries. Yet it is also possible, as some rumours suggest, that they are illegally exported to other African countries before being exported to international markets under the KPCS.

Imports that mention Canada, also a major diamond producer, as the declared country of origin, are high compared to 2002 and 2001 diamond production estimates for Canada. The reason for this large difference, especially in absolute terms, is also not known. It is unlikely to be caused by multiple entries of the same diamonds, because 90% of the imports from Canada were either mixed or stored in the EU (see table 16). If the diamonds were mixed, exported and subsequently re-imported into the EU a second time, they would have been declared as diamonds of mixed origin, not as diamonds produced in Canada.

[111] See also table 16. For Russia, the share of production that is directly imports is somewhat lower than for the other countries, but still about 80%.

**Table 17: European Community 2003 KP imports by country origin and diamond production in these countries.**

| | EC Imports 2003[112] | | Production 2002[113] | | Production 2001[114] | |
|---|---|---|---|---|---|---|
| | 1000 Carat | Value (mln US$) | 1000 Carat | Value (mln US$) | 1000 Carat | Value (mln US$) |
| Australia | 30,899 | 371 | 34,700 | 384 | 26,152 | 290 |
| Botswana | 26,771 | 2,012 | 28,400 | 1,799 | 26,417 | 2,200 |
| Russian Federation | 19,162 | 526 | 19,400 | 1,523 | 20,000 | 1,665 |
| D.R. Congo | 22,428 | 483 | 23,400 | 362 | 17,000 | 400 |
| South Africa | 10,479 | 1,031 | 11,100 | 805 | 11,300 | 900 |
| Angola | 969 | 200 | 5,700 | 918 | 5,200 | 850 |
| Canada | 9,345 | 1,034 | 5,000 | 508 | 3,685 | 530 |
| Namibia | 1,104 | 338 | 1,700 | 472 | 1,497 | 350 |
| South America[115] | 440 | 38 | 1,100 | 119 | 850 | 70 |
| Guinea | 501 | 37 | | | 600 | 120 |
| Central African Rep. | 298 | 44 | | | 550 | 90 |
| Ghana | 706 | 16 | | | 450 | 11 |
| Sierra Leone | 470 | 69 | | | 300 | 70 |
| Tanzania | 286 | 34 | | | 191 | 25 |
| China | <1 | <1 | | | 150 | 15 |
| Liberia | - | - | | | 100 | 20 |
| Congo, Rep. of | 1,623 | 22 | | | | |
| Togo | 87 | 5 | | | | |
| Zimbabwe | 27 | 2 | | | | |
| Mauritius | 1 | <1 | | | | |
| Lesotho | <1 | 3 | | | | |
| Other Africa for 2002 production Data[116] | 3,999 | 232 | 2,100 | 214 | | |
| Rest of the world for 2001 prod. Data[117] | | | | | 58 | 60 |
| Other origin | 5,277 | 285 | | | | |

[112] Source: European Commission.
[113] Source: M. Boer & R. Sherbourne (September 2003). Getting the Most Out of Our Diamonds: Namibia, De Beers and the Arrival of Lev Leviev. IPPR Briefing Paper No. 20, p3. Data from Mineral resource and Intelligence Unit (London, UK). See http://www.ippr.org.na/Briefing%20Papers/BP20.pdf.
[114] Source: Department of Minerals and Energy, Republic of South Africa (2003). South African diamond handbook and diamond mines directory, 2003. Most data are estimates by Terraconsult (Belgium) and Natural Resources (Canada). See http://www.dme.gov.za/publications/pdf/directories/D7.pdf. Another source, MBendi, mentions higher production estimates for the same countries. In addition, it estimates that production was 165,000 ct for Cote d'Ivoire and 20,000 ct for Lesotho in 2001. See http://www.mbendi.co.za/indy/ming/dmnd/af/an/p0005.htm.
[115] Combined imports from Brazil, Guyana and Venezuela.
[116] Production from all African countries not mentioned separately in 2002 production data. Combined imports with origin Central African Rep., Rep. of Congo, Ghana, Guinea, Lesotho, Mauritius, Sierra Leone, Tanzania, Togo and Zimbabwe.
[117] Production from Cote d'Ivoire, Lesotho, India, Indonesia and un-sourced artisanal production from Africa. No combined import figure is given for these countries. This would be misleading because of the large amount of diamonds allegedly originating in India (17% of all exports under the KPCS from India to the EU). There is substantial rough diamond trade with India for polishing and probably India is mentioned incorrectly as both the country of origin and the country of provenance on KP certificates.

| | | | | | | |
|---|---|---|---|---|---|---|
| (Europe, USA, Asia) | | | | | | |
| Mixed origin | 53,170 | 2,696 | | | | |
| **Total** | **184,043** | **9,246** | | | **144,500** | **7,666** |

**Sources: see footnotes. Calculations by SOMO.**

Imports of diamonds said to originate in the Republic of Congo were much higher than domestic production.[118] This was no mistake but a serious violation of the KPCS, and resulted in the expulsion of the country from the Kimberley Process, as previously explained.

Imports originating in Ghana, Sierra Leone and Tanzania were also relatively high at 50% above the 2001 production estimate. Similarly, imports originating in Togo were 50% above estimated 2001 diamond production in the 'rest of the world' category. Again, the reason for the difference is not known for these countries, but a multiple entry-effect is highly unlikely.

The large amount of EU imports with 'other origin' is remarkable. Most of these imports claimed to be produced in India, Israel or the European Community itself (see table 16). However, of these three only India is an active diamond producer and its production levels are nowhere near 5 million carat. Hence, the origin of millions of carats of diamond imports has been filled incorrectly on KP certificates.

## 7.6 Conclusions

The decision of the Commission to disclose detailed KP statistics increases the transparency on diamond trade and should be welcomed. Analysis of the trade statistics yields some interesting results, especially when combined with diamond production estimates.

A large share of world diamond production is directly imported into the EU. When diamonds are traded within the EU, they are almost always mixed with diamonds from other origin and therefore the source of the diamonds becomes much more difficult to trace. The inability to trace diamonds back to their country of origin reinforces the need for a well-functioning system of industry self-regulation in the EU to guarantee that diamonds come from legitimate sources.

With regard to individual countries, the analysis clearly shows that the Republic of Congo violated the KPCS. It declared large amounts of rough diamond exports with domestic origin while it had no substantial domestic production. Furthermore, imports with origin Angola were very low when compared to production, whereas imports declared to originate in several other African countries were relatively high. Imports with origin Canada were also much higher then annual production, especially in absolute terms. The reasons for this are not known.

[118] This remains true even imports into the UK, which according to the GDO originated in the DRC instead of the Republic of Congo and were declared incorrectly, are not counted.

Finally, it seems that the country of origin was sometimes confused with the country of provenance or, less frequently, with the country of destination. As a consequence, the origin of millions of carats of diamond imports into the EU has been filled incorrectly on KP certificates. Apart from the Republic of Congo, the majority of these were allegedly produced in India, Israel or the European Community.

# 8 The EU and other countries

## 8.1 Introduction

This chapter addresses two remaining issues, not directly related to the issues dealt with in the other chapters, yet relevant to this research. The first issue concerns the implementation of the KPCS and System of Warranties in the 10 new EU member states. The second issue concerns technical assistance from the EU to developing countries.

## 8.2 The new EU countries[119]

The Czech Republic, Hungary, Poland and Slovenia were individual KPCS participants before their accession to the EU on 1 May 2004. The Czech Republic was only admitted to the KPCS some three months before the accession on 21 January 2004. It is seems strange that the country did this, because it incurred considerable costs fulfilling all conditions for the KPCS, but does currently not meet the EU criteria to continue as a separate entry point. It cannot use its own KP certificates anymore either. However, it is expected that the Czech Republic will try to have its own Community Authority approved by the Commission. Hungary does not want to continue as an entry point. It is not clear what Poland and Slovenia will be doing. There are no diamond bourses in these countries. The European Commission is fairly confident that the new EU member states will correctly implement the Council Regulation.

It would be too early to draw a conclusion on the approach of the new EU countries. It is clear that any continued or new entry point will have to meet the same requirements as the UK and Belgium and be approved by the Commission. On the other hand, it is not clear how industry self-regulation in countries like the Czech Republic will be supervised.

## 8.3 Technical assistance for developing countries

From the outset it has been clear that African diamond-producing countries will need technical assistance to implement the KPCS.[120] In December 2002, the Council of the EU, EU member states and the European Commission made a joint statement that

*'(…) requests for assistance from rough diamond producing and exporting developing countries, in particular least developed countries, aiming at enabling these countries to meet their obligations and commitments under the Kimberley agreement, should be favourably considered.'*[121]

In addition, EU member states and the Commission announced they would explore ways to provide technical assistance to developing countries for implementing the

[119] This section is partly based on an interview with M. Van Bockstael, 26 May 2004.
[120] Oxfam, NiZA & Fatal TRansactions (2002). *Implementing Kimberley: Stopping the blood diamond trade to Europe*. Report of the EU Expert Meeting, March 7, 2002.
[121] 2477th meeting of the Council of the European union (Justice and Home Affairs), 19 December 2002. Addendum to the draft minutes, item 52. 15807/02 ADD 1.

KPCS. At present it seems that the UK is the only EU member state providing such assistance. The UK Department for International Development (DFID) is providing support to Sierra Leone.

Next to the UK, the HRD provides technical assistance on its own account to Angola, Sierra Leone, Guinea, DRC, Liberia and Lebanon. The organization does not receive financial support for its services from the WDC or from KPCS participants.

The HRD works in Liberia at the request of UNMIL and the temporary government. It helped draft the required legislation, which will be even more stringent than the Regulation in the EU to boost the credibility of progress in this country. Currently Liberia is one of the only two diamond producing countries, which is not a KPCS participant.[122] The HRD provided technical assistance to Lebanon and helped to draft the necessary legislation, as it did in Liberia. Lebanon is seeking to become a participant to the KPCS. This country is not so important in terms of international trade volumes of rough diamonds, but Lebanon has diamond-polishing facilities and can process rough diamonds from non-participants if it remains outside the KPCS.

At the European Commission the KPCS is managed by the Directorate General for External Relations. This department does not have funds for technical assistance and member states do not provide special funds for KPCS-related technical assistance to the Commission. The DG External Relations therefore seeks to arrange support from the European Development Fund (EDF). However, assistance from the EDF is programmed on a long-term basis, in accordance with national strategies and programmes which are agreed for a period of several years with the beneficiary countries. There are of possibilities for including new issues such as the implementation of the KPCS only when the programming framework is reviewed and support is a priority of the beneficiary countries too. If technical assistance for the KPCS will be funded by the EDF, the implication is that fewer funds will be available for other forms of development assistance. The arrangement of support to diamond producing countries at the European level is a relatively complex and slow process due to the EDF procedures.

Because of the focus of the EDF on development cooperation, it is expected that European donor funding for technical assistance will lead to more attention on the impact of diamond production on development at large. Without such a focus, it might not be possible to obtain EDF funding. Hence, technical assistance funded by the EDF might cause a shift in focus from conflict diamonds to the broader concept of ‘development diamonds’.

[122] The other country is Indonesia. Although the country has limited domestic diamond production on Borneo and Sumatra only, Indonesia’s participation in the KPCS could be important in the fight against the financing of international terrorism.

# 9 General conclusions and recommendations

## 9.1 General conclusions

### The KPCS

On 5 November 2002, fifty-two diamond producing, processing and importing countries adopted the Kimberley Process Certification Scheme (KPCS) to stop conflict diamonds from entering international diamond markets. They agreed to comply with certification requirements for exports of rough diamonds, assuring that all mined and traded diamonds are produced by, or procured from, legitimate sources. In practice, the KPCS was only fully implemented by 1 September 2003. This report has investigated the functioning of the system in the European Union one-year after this date. It examined how the European regulations for the KPCS and System of Warranties the are being implemented.

A lot has changed in the certification and control systems of rough diamonds since our last body of research in 2001. The complete ban on rough diamond imports from Liberia is still in place, but only imports from Sierra Leone and Angola required certificates at that time. The 2001 report concluded, among others, that inspection and monitoring systems for rough diamond imports were very different in the UK, Belgium and The Netherlands. The differences reflected the adoption of rules and regulations, knowledge, political will and available resources. Belgium, by far the largest importer, was more advanced than the other two countries and more transparent.

Under the KPCS, all participating states now must comply with the certification requirements for rough diamond exports. Countries have to pass the necessary laws and regulations to implement the system. Within the European Union (EU), all member states are instructed to import and export rough diamonds via a Community Authority, where the shipments are inspected. Until mid-August 2004, there were two European Community Authorities, one based in London and the other Antwerp. Therefore this report focussed on these countries.

Kimberley Process participants that have complaints about the way others implement the scheme can request a review mission to that particular country. A system of voluntary peer-reviews has also been put in place, under which a volunteering country can invite a team of observers to examine its implementation of the KPCS.

### Statistics

Information about trade flows is extremely important for the monitoring of the KPCS. In order to detect potential discrepancies between imports and exports of a country and sudden diversions of trade flows, participants are obliged to collect and exchange statistical data on the trade and production of rough diamonds.

However, for some countries this is sensitive information, which is not made public. The unwillingness of some participants to provide this data, even on confidential terms to the Kimberley Process (KP) Working Groups on Statistics, had slowed the creation of a consistent and thorough database. The European Commission has decided to publicly disclose detailed KP statistics for the EU as a whole. This initiative is welcomed as a way of increasing the transparency of the system.

The KP statistics for EU imports reveal that the origin of millions of carats of diamonds has been incorrectly cited on KP certificates. Furthermore, for several diamond producing countries, EU imports declared as originating from those countries substantially exceeded their domestic production.

### Implementation of the KPCS

Because the diamond sector is of such importance to Belgium, the country has been a strong supporter of the KPCS. As one of the two initial entry points in the EU, Belgium has implemented the system quickly and thoroughly, in close collaboration with, and under supervision of, the European Commission.

According to trade statistics, despite the instant fears of notably Belgium, there has not been a drop in diamond imports into the EU because of the strict regulations**.** Imports of rough diamonds from outside the EU have not decreased or transferred to, for example Tel Aviv, as the Belgian government feared. On the contrary, the country seems to have strengthened its position, as imports into the EU are increasingly going directly to Antwerp and London, no longer passing through other EU countries.

In the UK, the diamond industry is dominated by De Beers, the world’s leading diamond company. Similar to Belgium, the other EU point of entry for rough diamonds, the United Kingdom has clear import and export procedures. In contrast to Belgium though, the UK does not inspect all shipments, but only those selected on the basis of a risk assessment.

The Netherlands is not an important diamond trading country. As trade in rough diamonds is very small, there is no need for a separate entry point. Diamonds are imported through the Belgian Community Authority. However, the Dutch diamond trade data show some strange irregularities that cannot be accounted for. Stock declarations are not required in The Netherlands.

A weakness in implementing the KPCS in the EU, which applies to exports via both Belgium and the UK, is that rough diamond exports may be declared as coming from unregistered pre-2003 stocks from companies based in other EU countries. These stocks are not registered and can therefore not be verified.

Another issue that has not been addressed so far is the fact that diamonds may easily be smuggled into the EU through overseas territories like French Guyana. It was not clear whether all overseas territories remain outside the KPCS.

### Sanctions

Several ‘irregularities’ in the import and export regime of the KPCS have been discovered since the start of the process.
When not caused by mistakes, the cases were passed on to national authorities.

Several procedures are currently in place against companies in violation of KPCS provisions. None of the cases have concluded as of yet and no legal sanctions have thus been imposed, which makes judging the effectiveness of the monitoring mechanism extremely difficult. The lack of quick action on irregularities in the system remains a weakness, because it allows companies that have violated the KPCS to continue trading until a final judgement is reached, and this can take years.

### Export valuation

The valuation of rough diamond exports is an important issue in the KPCS. As many countries charge export taxes, this sometimes results in severe undervaluation of export shipments. Some countries allow imports of which the declared value is considerably lower than the market value, while others, notably Belgium, require the declared value be consistent with fair market value. Consequently, companies are increasingly exporting via countries that allow undervaluation, such as Switzerland, the US and the United Arab Emirates. This decreases profit margins for Belgian companies.

An indirect effect of the KPCS is that the tax earnings on diamond exports of some countries are rising, because of a larger control on trade flows and an increase in the value mentioned on KP certificates. This can be considered a positive effect for developing countries, notably post-conflict countries in the middle of a reconstruction process, like Sierra Leone.

### Industry self-regulation: the System of Warranties

The KPCS is an agreement between states and the certification requirements apply to international trade only. However, rough diamonds are also traded between companies within a country's borders. The European Community is a single market and therefore it is a single participant to the KPCS, represented by the European Commission. The KPCS does not apply to trade between EU member countries.

The EU statistics show diamonds that are traded within the EU are usually mixed with diamonds from other origins. The source of diamonds becomes harder to trace with each transaction. It is impossible to keep track of a set of rough diamonds once it has been split and mixed with rough diamonds from other sources.

To address this problem, the diamond industry established a voluntary system of self-regulation called the System of Warranties. This is also a major change, compared with the situation described in the 2001 report. Under the System of Warranties, all companies trading in diamonds have to make a statement on invoices that the diamonds they sell are conflict-free. These warranties must be supported by proof that the diamonds were obtained from legitimate sources. The System of Warranties applies to all transactions, domestic and international, and complements the KPCS.

### Implementation of the System of Warranties

In contrast to the arrangements for other KPCS participants, the European Union has made the system of industry self-regulation part of its legislation, supervised by the European Commission. So, although the system of warranties is in principle voluntary, under the EU regulation it becomes an obligation for all companies that wish to export rough diamonds from the EU. The EU currently has the strictest legal framework on trade in rough diamonds of all KPCS participants.

In Belgium and the UK, diamond bourses adopted a common code of conduct. Bourses have the obligation to publish the names of all individuals and companies that have been found guilty of violating KPCS or System of Warranties regulations. Members of the bourses are prohibited from buying rough diamonds from these persons or companies. As of August 2004, there had not been any audits of the records of warranties received and issued by diamond companies in Belgium. The UK was ahead of Belgium in this respect and had started such audits, but they have not yet concluded. Therefore no investigations have been carried out on violations of the System of Warranties and no sanctions have been imposed. There are no guarantees yet that the system is functioning correctly and effectively.

There is a major weakness in the implementation of the KPCS in the EU. The warranties issued by members of bourses in other EU countries are generally considered equally reliable as those issued by members of the Antwerp and London bourses. However, this is not justified, because the European Commission does not supervise the bourses in other EU countries.

In the Netherlands, industry self-regulation is not well developed. The diamond trade organisations in the Netherlands are not supervising the full implementation of the System of Warranties. Audits of the warranties issued and received are not required. Ensuring that warranties are included on every invoice without verification, which is currently happening, is insufficient. Like in Belgium, there are no guarantees yet that the system of self-regulation is functioning correctly

### The KPCS and System of Warranties in new EU member states

The Czech republic, Hungary, Poland and Slovenia were individual KPCS participants before their accession to the EU on 1 May 2004. They currently do not meet the requirements to become a separate entry point. It is yet unclear which of these countries is going to have it's own Community Authority. Nor do we know how these countries are going to monitor industry self-regulation.

### The EU and internal controls in Africa

Although there are flaws in the implementation of the KPCS and System of Warranties in the EU, the main problems do not occur on this side of the world. There is general consensus that the biggest weaknesses in the system exist in African countries. Probably the most important strategy for laundering conflict diamonds is to smuggle them into the local markets of a diamond producing country that is a KP participant, and mix them with domestic production.

Member states and the European Commission have stated their commitment to provide additional assistance to developing countries to assist their implementation of the KPCS. However, apart from some support by the UK, EU countries have not made any funds available so far for KPCS-related technical assistance. Theoretically, countries could use support form the European Development Fund (EDF). It is extremely complicated to get access to EDF funding, though, and using EDF money for the KPCS means less money will be left for other causes like education and health. In spite of all the effort and resources that have been put into the implementation of the KPCS in the EU, it is strange that except for the UK there have been no commitments to support the implementation of the KPCS in developing countries. After all, the root causes are in developing countries.

## 9.2 Recommendations

### Belgium

- The Ministry of Economic Affairs and the Antwerp diamond bourses need to demonstrate that the System of Warranties is functioning correctly and that sanctions to enforce compliance are effective. Audits of the records of warranties received and issued by diamond companies during the year 2003 should be carried out in Autumn 2004, in order to sustain the credibility of the system.

- The Ministry of Economic Affairs should pay extra attention to shipments with suspicious origins. This becomes even more important now the Republic of Congo is expelled from the KPCS and conflict diamonds will try to find other ways into international markets. It should ask for clarification when imports with a certain origin are exceeding domestic production of that country (e.g. Togo, Ghana, Sierra Leone). Furthermore, it should pay special attention to the very large imports of rough diamonds with mixed origin coming from Russia.

- The Ministry of Economic Affairs should publicly disclose trade statistics for rough diamonds based on KP certificates, with an explication of the errors, discrepancies and anomalies in the data. It seems odd that the Ministry continues to refuse releasing this data despite the fact that statistics for the UK and the European Community as a whole are available. This information would allow for the rough calculation of Belgium trade flows as well as provide other relevant trade flow information. However, this method may cause even more confusion than directly disclosing the statistics for Belgium.

- The Antwerp diamond bourses should require stronger evidence of the conflict-free origin of diamonds for purchases from companies affiliated to bourses outside the UK and Belgium. At present, a warranty is considered sufficient evidence. The warranties issued by members of these bourses are generally considered as reliable as those issued by members of the Antwerp and London diamond bourses. However, the implementation of the System of Warranties by these bourses and their members is not supervised by the European Commission and therefore less reliable. This is a serious weakness in the system of industry self-regulation in Europe that needs to be addressed.

### The UK

- The Government Diamond Office and the London bourse need to demonstrate that the System of Warranties is functioning correctly and that sanctions to enforce compliance are effective. To this end, the audits of the records of warranties received and issued by diamond companies should be completed in autumn 2004.

- The Government Diamond Office should pay extra attention to shipments with a suspicious origin. This becomes even more important now the Republic of Congo is expelled from the KPCS and conflict diamonds will try to find other ways into international markets. It should ask for clarification when imports with a certain origin are exceeding domestic production of that country (e.g. Tanzania, Canada). It should also continue to clarify other errors, discrepancies and anomalies in the data from KP certificates and other trade data, including the small but strange discrepancies for trade with The Netherlands.

- The London diamond bourse should require stronger evidence of the conflict-free origin of diamonds for purchases from companies affiliated to bourses outside the UK and Belgium. At present, a warranty is considered sufficient evidence. The warranties issued by members of these bourses are generally considered as reliable as those issued by members of the Antwerp and London diamond bourses. However, the implementation of the System of Warranties by these bourses and their members is not supervised by the European Commission and therefore less reliable. This is a serious weakness in the system of industry self-regulation in Europe that needs to be addressed.

### The Netherlands

- The Amsterdam Diamond Bourse and the Dutch Diamond Manufacturers Association should make a greater effort to ensure the correct implementation of the System of Warranties. Verifying that warranties are included on every invoice, without requesting audits of the records of warranties issued and received by a company, is insufficient. Audits should be carried out before the end of 2004, covering the whole period from January 2003 onwards, in order to sustain the credibility of the system.

- The diamond industry organizations, together with the Ministry of Economic Affairs and/or the European Commission, should find a solution for the matching of warranties issued and received by companies that process rough diamonds. At present, this is impossible due to the losses in weight and changes classification. There are therefore no guarantees for the correct implementation of the System of Warranties. They should seek an appropriate solution that does not cause an onerous administrative burden for the companies.

- The Ministry of Economic Affairs should clarify errors, discrepancies and anomalies in the statistics on trade in rough diamonds, especially industrial rough diamonds. This includes the small but strange discrepancies for trade with the UK.

- Several KPCS participants, most of them diamond-producing countries, are partner countries of The Netherlands for development cooperation: Armenia, Ghana, Sri Lanka, Tanzania, Vietnam and South-Africa. The Ministries of

Foreign and/or Economic Affairs should provide funds for technical assistance to these countries to support the implementation of the KPCS.

### All EU member states

- More EU member states should make additional funds available for technical assistance for the implementation of the KPCS in developing countries. Considering the effort and resources that are being put into the implementation of the KPCS in the EU, it is strange that except for the UK there have been no commitments to support implementation of the KPCS in developing countries. After all, that is where the root causes of the problem lie.

### The European Commission

- The European Commission should insist on timely audits of the System of Warranties and reports from the bourses on the functioning of the system. Without this information, it does not have sufficient insight in the implementation of the regulations.

- The European Commission needs to find a solution to ensure the correct implementation of the System of Warranties by diamond bourses not listed on Annex V of the EC Regulation and their members. The implementation of the System of Warranties by these bourses and their members is not supervised by the European Commission and therefore less reliable. There should be an arrangement for strengthened supervision of these bourses, or listed bourses should require stronger evidence of the conflict-free origin of diamonds from companies affiliated to unlisted bourses.

- The European Commission should seriously consider the declaration and certification of all rough diamond stocks in all EU member states. While unregistered stocks continue to exist in EU countries without a Community Authority, there are no guarantees that rough diamonds are conflict-free because they can always be declared as coming from pre-KPCS stocks. For countries with limited trade in rough diamonds, this would be a small effort only.

- The European Commission should clarify errors, discrepancies and anomalies in the data from KP certificates and insist that other KPCS participants put an end to incorrect declarations. The KP statistics for EU imports reveal that the origin of millions of carats of diamonds has been mentioned incorrectly on KP certificates. Furthermore, for several diamond producing countries, EU imports declared to originate in those countries substantially exceeded their domestic production.

- The European Commission needs to alert Community Authorities to watch for shipments with suspicious origins. This will have to be coordinated at the EU level, using aggregate KP statistics for the European Community. When imports with a certain origin are exceeding domestic production of that country but enter the EU at different entry points, for example, this will be easier to detect at the EU level. In such a case the European Commission should request Community

Authorities to detain shipments with this origin, pending clarification from the exporting authorities.

- The European Commission should clarify how the system of industry self-regulation will be implemented in the new EU countries. The creation of new points of entry for rough diamonds should be discouraged. There are currently three Community Authorities (in Belgium, the UK and Germany). If this number increases, the import and export regime will become more fragmented, more difficult to supervise and coordinate, and probably less efficient.

- Potential smuggling routes of rough diamonds into the EU through overseas departments, such as French Guyana, require extra attention. The European Commission should take all necessary measures to prevent conflict diamonds from entering the EU via such routes.

- The European Commission should continue to insist on the introduction of an independent monitoring system for the KPCS.

## Other SOMO publications on diamond trade and Southern Africa

- Garment production in Malawi. Joint Publication of SOMO and Workers College. 2003.
- Conflict diamonds: crossing European borders? A case study of Belgium, the United Kingdom and The Netherlands. August 2001.
- Onderzoek naar de rol van financiële instellingen in de diamanthandel: ABN AMRO en de Nederlandse Bank. [Research on the role of financial institutions in the diamond trade: ABN AMRO and the Dutch National Bank.] May 2001.
- De Nederlandse diamantsector. [The Dutch diamond sector.] October 1999.

These publications are available at http://www.somo.nl.