



KPCS ANNUAL REPORT FOR 2012 AUSTRALIA

A. Institutional Framework

The Department of Foreign Affairs and Trade (DFAT) – official coordinator for the implementation of the KPCS - the Australian Customs and Border Protection Service (Customs and Border Protection) – the Import Authority – and the Department of Resources, Energy and Tourism (RET) – the Export Authority – work collaboratively to ensure the Kimberley Process Certification Scheme (KPCS) is implemented efficiently and correctly. Contact details for each agency are below.

Lead agency: Department of Foreign Affairs and Trade

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B. Legal Framework

Legislative Changes

There were no legislative changes made in 2012. Australia's legal framework for implementing the KPCS is, therefore, the same as it was when the 2011 annual report was submitted.

Responses to additional information requested by the WGM for the annual report

- It is a requirement for frequent and large exporters and importers of rough diamonds to keep records for a period of five years.
- Import and export records, including details of buyers and sellers are retained permanently by the Department of Resources, Energy and Tourism (for exports) and the Australian Customs and Border Protection Service (imports).
- Miners are required to retain all import and export documentation for a period of 3 years; however in practice producers permanently retain relevant records.

C. Import and Export Regime

Outgoing shipments

There have been no changes in the export legislation or regulations since the previous report.

Responses to additional information requested by the WGM for the annual report

- It is a requirement for Australian rough diamond exports to be sealed in tamper proof containers with the original Certificate issued by the Australian Export Authority on the outside of the container.
- Australian mines operate in partnership with the Export Authority and send information on their exports to the relevant import Authority and the Australian Export Authority. The Australian Export Authority sends advanced notices of all other rough diamond shipments, containing information on carat weight, value, importer, certificate number and HS code, to the relevant Import Authority.
- All exports and imports are recorded on computerised databases by the relevant Authority.

Incoming shipments

There have been no changes in the import legislation or regulations since the previous report.

Responses to additional information requested by the WGM for the annual report

- In 2012, Australia received prior notifications of rough diamond shipments from India and Israel. No other prior notifications were received from any countries.
- Australia is working with the USA to improve tracking of small parcels that enter the country through general mail services.
- Customs and Border Protection would take action where it finds any seals or containers have been tampered with. No shipments are released unless all documentation, including the KP certificate have been presented to Customs and Border Protection.



- Diamond valuers or other experts would be engaged to value an incoming diamond shipment, where considered appropriate. Low value consignments are not independently valued.
- An email (and the return slip or import confirmation coupon where relevant) is sent to the relevant Export Authority once the importation has been finalised.
- Customs and Border Protection maintains an internal computerised database that records the importation details of all rough diamond shipments.

KPCs issued and received in 2012

Country	Exports	Imports
European Community	78	37
India	34	20
China	8	2
Israel	3	1
USA	1	4
Canada	1	1
Switzerland	1	
Mauritius	1	
New Zealand	2	
Totals	129	65

Exports are significantly down on 2011 primarily as a result of the drop in production from the Argyle mine as it transitions from open cut mining to an underground operation.

D.System of internal controls and Industry Self-Regulation

There are two diamond mines operating in Australia; the Argyle and Ellendale mines located in the Kimberley Region of Western Australia, operated by Argyle Diamonds (Rio Tinto) and Kimberley Diamond Company (KDC, trading as Gem Diamonds) respectively. In late 2012, Gem Diamonds agreed to sell Kimberley Diamond Company to the Australian listed company Goodrich Resources Ltd. The transaction is yet to be completed.

The vast majority of Australia's rough diamond production is generated by the Argyle mine. In September 2010, Rio Tinto announced it was investing US\$1.5 billion to undertake the development of an underground block cave project at its Argyle mine in Western Australia. Following a transition from the current open pit operation, the underground mine will be fully operational in 2013. Rio Tinto indicates the project will extend the life of the mine until at least 2019.

Both operational mines partially self-regulate as "Frequent Exporters". Under this process, the companies are able to export Australia origin product through an expedited process providing their systems and security remain robust such that they meet the requirements of the KPCS.



Throughout 2012, the Australian KP Export Authority maintained regular contact with the two producing companies to keep abreast of developments in rough diamond mining operations. Representatives of the KP Export Authority visited Argyle Diamonds and KDC during 2012 to assess KPCS compliance, incorporating an assessment of record-keeping procedures, security processes, export processes, and reporting processes. Both companies were found to be undertaking these activities in a manner which allows Australia to meet the requirements of the KPCS.

Exploration for the development of new diamond mines in Australia is continuing with two properties at an advanced stage of exploration. The Smoke Creek alluvial deposit owned by Venus Metals Limited is located near the Argyle Diamond mine and consists of alluvial terraces containing diamonds shed from the Argyle primary diamond deposit. Merlin Diamonds Limited (formerly North Australian Diamonds) is also well advanced on the redevelopment of the Merlin diamond deposit located near Borroloola in the Northern Territory.

The Australian Export Authority now also allows Kimberley Rough Diamonds to expedite its own exports of Australian origin product. Kimberley Rough Diamonds is a private business located in Kununurra in Western Australia that is involved in diamond trading and jewellery.

In terms of monitoring production, the KP Export Authority works in collaboration with a number of Australian Government agencies, including geoscientific information agency Geoscience Australia and economic research agency the Bureau of Resources and Energy Economics, to ensure the validity of reported Australian rough diamond production statistics. In addition, Rio Tinto Ltd, which is listed on the Australian Securities Exchange, is required to comply with the Joint Ore Reserves Committee Code. This Code provides minimum standards for public reporting and a mandatory system for the classification of tonnage/grade established according to geological confidence and technical/economic considerations. Financial reports and media releases from producers, exploration and junior companies are also monitored.

Responses to additional information requested by the WGM for the annual report

- The Australian Export Authority has had no breaches of the KPCS during 2012 or previously.
- One minor shipment was seized by the Australian Import Authority for breaches under the *Customs (Prohibited Imports) Regulations 1956* in 2012. The Chair was not informed due to confidentiality requirements under the Australian legal system, noting the breach was not sufficient to trigger court action.
- All information on diamonds mining, mines, buyers and sellers relevant to the KPCS is maintained on electronic databases maintained by the Import and Export Authorities.
- Computerised databases are kept for all exporters of rough diamonds in Australia and records are also kept for all imports.
- Records are kept for all import and export of rough diamonds, including clients, volume and value of transactions. Australia does not issue licence numbers, however, each exporter has a unique identifier within the KPCS numbering system, records of which are retained.



- Australia maintains the information required by Section V of the KPCS Document on a computerised database, routinely contacts relevant authorities in other countries electronically and statistical information is routinely transmitted electronically.
- The Australian Export Authority, as noted above, works with Australian diamond mining companies to maintain security standards.
- All purchases of rough diamonds are through official banking channels for producers of rough diamonds in Australia. Smaller trades are not tracked.

E. Statistics

Australia has met its reporting obligations in full for 2012. Australia submitted trade statistical reports for Q1 2012, Q2 2012, Q3 2012, Q4 2012 and mine production reports for H1 2012, and H2 2012.

Responses to additional information requested by the WGM for the annual report

- Australia has not undertaken any complementary initiatives related to the collection of statistics on the Certificates as Australian Certificates are fully compliant with Annex III of the KPCS Document.

F. Implementation of recommendations of Kimberley Process Review Visits and/or Review Missions

Australia's last review was undertaken in 2007. Australia is compliant with the minimum requirements of the KPCS.

G. Infringements and cooperation with Respect to Enforcement

In accordance with the November 2009 Administrative Decision on Cooperation on Implementation and Enforcement, made at the Plenary meeting in Swakopmund, Australia provides the following report on implementation and enforcement issues (enforcement, KP-related infringements and breaches, fraudulent certificates, suspicious shipments, exchange of information between Participants in relation to investigations).

Enforcement

Customs and Border Protection undertakes checks to verify compliance with the KPCS by intervening in transactions proportionate to the perceived level of risk. Intervention by Customs and Border Protection is limited to the level required to deal with the assessed level of risk.

Customs and Border Protection has powers that enable it to investigate and take enforcement action following incidents involving the illegal importation or exportation of prohibited goods. The circumstances surrounding such incidents are taken into account and Customs and Border Protection may take enforcement action deemed to be appropriate. Where possible, this will include the seizure of the goods.



The seizure of goods involves a legislated process, a part of which provides the owner with the opportunity to claim for the return of the goods by submitting any supporting information to Customs and Border Protection. In some cases the matter may be considered through the Courts.

If a claim is not lodged or is unsuccessful then the goods are forfeited and are disposed of within the legislative provisions of the *Customs Act 1901*. Normal disposal means for prohibited imports is by destruction. Failure to comply with the legislative requirements of the *Customs Act 1901* and the *Customs Regulations 1926* relevant to the operation of the KPCS could constitute an offence and attract pecuniary penalties.

The import or export of prohibited diamonds is an offence under the *Customs Act 1901*. The penalty on conviction is, if the Court can determine the value of the diamonds, a penalty not exceeding 3 times the value of the goods or 1,000 penalty units whichever is the greater.¹ If the Court cannot determine the value then the penalty would not exceed 1,000 penalty units.

Customs and Border Protection maintains an internal website which provides its officers with procedural instructions on how to treat imports and exports of consignments of rough diamonds subject to the KPCS. In addition the website provides both electronic access to the Acts and Regulations which underpin the KP Scheme as well as an updated list of KP Participants and samples of their KP certificates.

KP-related infringements and breaches

Tight controls remain in place at the border by Customs and Border Protection in relation to the KPCS, and as noted, there was one minor seizure of rough diamonds in 2012.

Fraudulent certificates

Australia has not detected any cases of fraudulent certificates on import or export.

Suspicious shipments

Customs and Border Protection investigates suspicious shipments on import and export.

Exchange of information between Participants in relation to investigations

Australia routinely exchanges information with participants to manage the KP process and ensure integrity of the system.

H. Miscellaneous

Australia led the Review Mission to Thailand in March 2012. In 2012, Australia also continued its engagement as a member of the Working Group on Monitoring, the Selection Committee and the Working Group of Diamond Experts.

Responses to additional information requested by the WGM for the annual report

- Australia has no rebel or insurgent activity.

¹ A penalty unit is currently equivalent to AUD 170.