



REPÚBLICA DE MOÇAMBIQUE

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COUNCIL OF MINISTERS

Decree nº63 /2021 of 1 September

There being a need to adjust the Mechanisms for the Certification of Rough Diamonds, Precious Metals and gemstones and define rules for their trading and control, in accordance with the internationally established requirements under the Kimberley Process, under the provisions of article 59 of Law No. 20/2014, of August 18, the Council of Ministers decrees:

**ARTICLE 1.** The Regulations for the Trading of Diamonds, Precious Metals and gemstones and its annexes which form an integral part of this Decree are approved.

**ARTICLE 2.** Decree No. 25/2015 of 20 November and all legislation contrary to this Decree is revoked.

**ARTICLE 3.** This Decree enters into force on the date of its publication.

Approved by the Council of Ministers, at \_\_\_\_\_.

Let it be Published.

The Prime Minister, Carlos Agostinho de Rosário

REGULATION FOR THE TRADING OF DIAMONDS, PRECIOUS METALS AND GEMS

## CHAPTER I

### General Provisions

#### ARTICLE 1

#### (Definitions)

For the purposes of this Regulation, the terms and expressions used have the meaning given below:

- a) Competent Authority: Institution responsible for conducting the Licensing process, as the case may be;
- b) Export Authorisation: Document issued by the competent entity that authorizes the export of diamonds, precious metals and gemstones;
- c) Operator Card: document issued by the competent entity that identifies the person authorized to carry out the purchase and sale of diamonds, precious metals and gems under the respective licence;
- d) Export Card: Document issued by the competent entity that grants its holder the right to export diamonds, precious metals and gemstones;
- e) Import Card: Document issued by the competent entity that grants its holder the right to import diamonds, precious metals and gemstones;
- f) Kimberley Process Certificate: A document protected from forgery and with a specific format, which confirms that a shipment of rough diamond meets the requirements of the certification process;
- g) Certificate of Origin: Document issued by the competent entity that confirms the origin of the mining product;
- h) Trading: purchase or sale of mineral products in the national territory;
- i) Diamond: natural mineral consisting essentially of pure crystallized carbon in the isometric system, with a hardness of 10 on the Mohs scale, density of about 3.52 and refractive index of 2.42;
- j) Rough diamonds: unworked natural minerals, or simply sawn, cleaved or bruted, under codes 7102 10 00, 7102 21 00 and 7102 31 00 of the Harmonized Commodity Description and Coding System;

- k) Cut diamonds: natural minerals which have undergone various physical and/or mechanical cutting processes, in accordance with the requirements inherent to their class or shape and can thereby be classified as such by the Ministry responsible for mineral resources;
- l) Uncut diamonds: rough diamond or synthetic diamonds which, after being acquired, have not undergone any alteration, including diamond dust, diamond fragments, crushed diamonds and partially processed diamonds;
- m) Synthetic diamonds: diamonds produced or worked by a man-made chemical, mechanical or not natural method;
- n) Competent Entity: Kimberley Process, Precious Metals and Gemstone Management Unit;
- o) Commercial Depot for Diamonds, Precious Metals and Gemstones: location from which the export or import of diamonds, precious metals and gemstones is carried out;
- p) Export: legal and effective exit from the national territory through a commercial depot under the terms of the applicable law;
- q) Gemstone: Precious and Semi-Precious Stones;
- r) Circulation Certificate: document issued by the competent entity that authorises the legal possession and circulation within the national territory of diamonds, precious metals and gems which have the specified classification;
- s) Import: legal and effective entry or introduction into the national territory, through a commercial depot under the terms of the applicable law;
- t) Cutting: activities or operations of sawing, cleaving, grinding, or dividing diamonds and gemstones, as well as faceting, polishing, brilliantteering, or altering the shape of such diamonds or gemstones;
- u) Precious Metals: gold, platinum and silver;
- v) Minister: Minister who oversees the area of mineral resources;

- w) Trading Operator: any person authorized, under the terms of these Regulations, to carry out the activity of buying and selling diamonds, precious metals or gemstones;
  
- x) Precious Stones: Ruby, Paraíba Tourmaline, Sapphire, Emerald, Aquamarine;
  
- y) Expertise: Examination or verification carried out by duly qualified technicians;
  
- z) Kimberley Process: Set of international processes and activities adopted under Resolution No. 55/56, of the General Assembly of the United Nations, which aim to certify the origin of rough diamonds, and to prevent that the sale of diamonds be used for financing armed conflicts;
  
  
- aa) Diamond Processing: activities carried out within the scope of any mining activity, for the purpose of obtaining cut diamonds from rough diamonds;
  
  
- bb) Gem Processing: activities carried out within the scope of any mining activity, for the purpose of obtaining cut gemstones from rough gemstones;
  
  
- cc) Participant: State or regional economic integration organization to which the Kimberley Process certification system applies;
  
  
- dd) Transit: Physical passage through the country's territory, with or without transshipment, storage or change of means of transport, if such passage constitutes only part of a complete journey that begins and ends outside the country through which the shipment passes;
  
  
- ee) Mineral Titles: has the meaning given under the Mining Law;
  
  
- ff) Import Validation Certificate: document issued by the Kimberley Process, Precious Metals and Gemstone Management Unit, certifying the legality of the import;
  
  
- gg) Transaction: Import, export, purchase and sale or any form of disposal of diamonds, precious metals, and gemstones;
  
  
- hh) Kimberley Process, Precious Metals and Gemstone Management Unit: entity subordinate to the Minister that oversees the Mineral Resources area, responsible for the

management of the implementation of the Kimberley Process Certification System and the trading of precious metals and gemstones;

ii) Import Validation: Document issued by the competent entity that confirms the legality of the importation of diamonds, precious metals, or gemstones;

jj) Sale: Disposal by any means, free or for value, voluntary or coercive, gift or trade, the purpose of which is to dispose of diamonds, precious metals and gemstones.

## **ARTICLE 2**

### **(Objective)**

1. The purpose of this Regulation is to establish rules governing the trading of rough diamonds, precious metals and gemstones.

2. These Regulations establish the conditions for carrying out the activities of selling, import, export and transit of rough diamonds, precious metals and gemstones as such classified in subsections 7102.10, 7102.21 and 7102.31 of the Harmonized Commodity Description and Coding System approved by the World Customs Organization.

3. The trading of rough diamonds, precious metals and gemstones, under a Trading Licence, is only allowed to individual and collective persons who are nationals in accordance with the Mining Law.

## **ARTICLE 3**

### **(Scope)**

This Regulation applies to exploration and production operations carried out under mineral titles and to the purchase and sale of rough diamonds, precious metals and gemstones.

## **Article 4**

### **(Authority)**

1. The Minister who oversees the area of Mineral Resources has the authority to:
  - a) Issue a Trading Licence under the terms of this regulation;
  - b) Suspend the Licence, when there has been, in relation to the holder, Trading Operator or agent, an indictment for the commission of a crime that is subject to a greater penalty, as long as there is no denunciation or acquittal by a final decision;
  - c) Revoke the Trading Licence;
  - d) Approve the Model of the Certificate of Origin and for the Kimberley Process Certificate;
  - e) Issue enforceable norms and carry out other acts that allow for the implementation of this regulation.
2. The Minister who oversees the area of Mineral Resources may delegate the competence established in sub-paragraphs a), b) and c).

## **CHAPTER II**

### **Mineral titles**

#### **Section I**

#### **Requests, instruction, processing and decision**

## **Article 5**

### **(Authorisation)**

1. The carrying out of any exploration, production and transaction of rough diamonds, precious metals and gemstones must be carried out by obtaining the respective mineral title and registration with the Ministry that oversees the area of Mineral Resources.

2. Mineral titleholders, agents, intermediaries, transporters, importers and exporters, cutters, polishers and manufacturers of jewelry parts of rough diamonds, precious metals and gemstones in the national territory, must be registered with the Ministry that oversees the area of Mineral Resources.

3. The inscription and registration referred to in the previous numbers must be carried out with the Kimberley Process, Precious Metals and Gemstone Management Unit.

## **ARTICLE 6**

### **(Application for mineral title)**

1. The attribution of mining rights is made through the Mineral titles defined in the Mining Law.

2. The application for a Trading Licence must be submitted to the institution responsible for processing applications for a Trading Licence at the central or local level with jurisdiction over the intended mineral trading area.

3. The request for a Trading Licence must contain the following information:

- a) Complete identification of the applicant;
- b) Indication of the Mineral Resources being requested to be included in the Licence;
- c) Unique Tax Identification Number – NUIT;
- d) Indication of physical domicile documented and subject to inspection.

4. The application must be accompanied by the following documents:

- a) Certified copy of the identification document;
- b) Power of attorney that grants the representative, powers of representation for the process of submitting an application and registration, in case the applicant is a legal person or is represented by third parties;
- c) Criminal Record Certificate in the case of an individual person;

- d) In the case of a collective person, a copy of the Government Gazette (Boletín da República) where the respective statutes were published or proof of payment for the respective publication;
- e) Identification document of the Trading Operator; and
- f) Certificate of assumption of responsibility by the individual or collective person in relation to each Trading Operator, as applicable.

## **ARTICLE 7**

### **(Processing of the application)**

1. Upon receipt of the application, the institution responsible for processing the requests for a Trading Licence at the central or local level, must duly register the application, providing the applicant with the respective proof containing the date of receipt and the signature of the employee who has received it.
2. Within the scope of processing the application, the applicant may be asked for additional information, experience in conducting the activity related to the trading of diamonds, precious metals and gemstones, as well as consultation with other organizations and entities relevant to the applicant's conduct.

## **Article 8**

### **(Decision on the application)**

1. The Minister who oversees the area of Mineral Resources must decide on the application for a Trading Licence within 60 (sixty) days.
2. The interested party is notified of the decision on the application for a Trading Licence within a maximum period of 10 (ten) days.
3. The decision to reject the application must be duly substantiated.
4. The Trading Licence is issued and delivered to the interested party after payment of the fees, taxes due and proof of payment for the publication of the licence authorisation decision.

5. If, after notification of the decision to issue the Trading Licence, the interested party does not pick up the licence within a period of 60 (sixty) days, it shall be considered cancelled.

## **SECTION II**

### **Validity, Licence Content, Licensee Rights and Obligations**

#### **ARTICLE 9**

##### **(Term of Licence)**

The Trading Licence is valid for 5 (five) years, renewable for an equal period, in accordance with the provisions of article 14 of this regulation.

#### **ARTICLE 10**

##### **(Licence Contents)**

The Trading Licence must contain the following elements:

- a) Name and address of the licensee;
- b) Licence number and issue date;
- c) Licence issuing entity;
- d) Expiration date;
- e) Designation of the mineral products covered by the Licence;
- f) Fee due for issuing the licence;
- g) NUIT (tax identification number); and
- h) Other terms and conditions as appropriate.

#### **ARTICLE 11**

##### **(Distribution of the licence)**

The Trading Licence is issued in triplicate, the original being delivered to the respective holder and copies to the institution responsible for processing the Trading Licence applications at central and local level.

## **ARTICLE 12**

### **(Rights of the licence holder)**

1. The Trading Licence grants its holder the right to carry out the activity of the trading of the mineral products specified in the Licence within the operating area covered by the Licence.
  
2. The Trading Licence does not grant its holder exclusive right over the area of operation.

## **ARTICLE 13**

### **(Obligations of the licence holder)**

1. The Trading Licence holder has the following obligations:
  - a) Register any Trading Operator under the respective licence;
  - b) To exercise control over the activities of mineral operators registered under its licence;
  - c) Return to the competent entity the Card of the mineral Operator who has ceased to operate under its licence;
  - d) Renew the Operator Card and pay the respective fee, as well as pay the annual fee for trading;
  - e) Provide annual information on the purchase and sale operations carried out during the year.
  
2. The holder of the Trading Licence is responsible for the trading operations carried out by the operators registered under the respective Licence.

## **SECTION III**

### **Renewal, transfer and termination of licence**

#### **ARTICLE 14**

##### **(Renewal)**

1. The holder of the Trading Licence, who wishes to renew the licence, must, within 60 (sixty) days before the expiration of the Licence, request its extension.
  
2. If the application is submitted later than the deadline established in the previous paragraph, the licensee is subject to payment of double the processing fee established in Annex III of these regulations.
  
3. The renewal of the Licence will be granted provided that the following requirements are cumulatively met:
  - a) The licence holder has fulfilled his obligations under the Licence;
  - b) The licence holder submits the report of activities carried out during the validity of the trading licence to be renewed;
  - c) There is no instance of non-compliance with the provisions of mining and other applicable legislation.

#### **ARTICLE 15**

##### **(Transfer)**

1. Any inter vivos act or legal transaction involving the transfer or any form of disposal of the licence requires the authorisation of the Minister who oversees the area of Mineral Resources.
  
2. The application to transfer must meet the following requirements:

- a) Written declaration by the transferee of acceptance of the terms and conditions established in the mineral title;
  - b) Proof of legal capacity of the transferee;
  - c) Proof of the transferee's technical and financial resources to carry out the trading operations provided for in the mineral title;
  - d) Proof of payment of the mineral title transmission fee in accordance with Annex III of the present regulation; and
  - e) Instrument by which the transmission is intended to be effectuated.
3. In the event of the licence holder's death, the licence may only be transferred if the heir, within a period of 180 (one hundred and eighty) days or another period approved by the Minister, submits, in addition to the elements referred to in the preceding paragraph, a death certificate of the licence holder and proof of capacity to inherit.

## **SECTION IV**

### **Licence revocation and relinquishment**

#### **ARTICLE 16**

##### **(Termination of licence)**

1. The Trading Licence terminates on:
  - a) Expiry;
  - b) Revocation;
  - c) Relinquishment.
2. The Trading Licence expires at the end of its term of validity and its renewal has not been applied for as provided for under the terms of article 14.
3. The termination of the Trading Licence does not exonerate its holder from fulfilling its obligations in relation to the State or third parties, existing at the date of the licence's termination.

## **ARTICLE 17**

### **(Revocation and terms)**

1. The Minister who oversees the area of Mineral Resources may revoke the Trading Licence when:

- a) The licence holder or its agent violates any provisions of the Mining Law and its regulations or any terms and conditions of the respective licence;
- b) There is evidence that the holder or its agent is or has been involved in illegal trading operations of mineral products in contravention of these Regulations or other applicable legislation;
- c) The licensee or trading operator has been convicted of a crime that carries a prison sentence of more than two years;
- d) The trading licensee or trading operator is associated with parties involved in the illegal trafficking of mineral products or other illegal activities;
- e) The licensee or trading operator has made false statements or provided false information to obtain the licence;
- f) Failure to pay the annual fee for trading.

2. The revocation provided for in this article shall be made by order of the Minister who oversees the area of Mineral Resources, which order shall set a period not less than 60 (sixty) or more than 90 (ninety) days from the date of notice after which the revocation shall become effective.

3. After the period set forth in the previous number has elapsed, the licence holder or its agent shall not carry out any transactions for the purchase and sale of diamonds, precious metals or gems, provided that the Minister who oversees the area of Mineral Resources may authorize, on a case-by-case basis, the completion of any ongoing transactions on the date of notification.

## **ARTICLE 18**

### **(Relinquishment)**

1. The holder of the Trading Licence may, at any time, upon thirty (30) days' prior written notice, addressed to the Minister, inform the institution responsible for processing Trading Licence applications at the central level of its intention to relinquish the licence.
2. The relinquishment shall be effective from the date on which the Ministry confirms compliance, by the licence holder, with the terms and conditions of the Licence.

## **CHAPTER III**

### **Diamonds, Precious Metals and Gems Transaction**

#### **SECTION I**

#### **General principles**

#### **ACT 19**

#### **(Trading Depots)**

1. The export or import of diamonds, precious metals and gemstones is carried out only through Diamonds, Precious Metals and Gemstone Trading Depots approved by the Government.
2. The Kimberley Process Management Unit is designated to facilitate the export or import of diamonds, precious metals and gemstones in the Trading Depots.

## **ARTICLE 20**

### **(Trading operator registration)**

1. The registration of a Trading Operator is carried out at the entity in charge of processing the applications for a Trading Licence.
2. The application of the Trading Operator shall be decided by the person responsible for the entity in charge of processing the Trading Licence applications.
3. The application to register as a Trading Operator shall be denied whenever the operator:
  - a) Lacks legal capacity;
  - b) Is involved in illegal mineral trading operations or illegal mining activities;
  - c) Has been judicially sentenced to a prison sentence of more than two years; or
  - d) Has made false statements or provided false information when registering.
4. The start of trading of diamonds, precious minerals or gems under the Trading Licence is subject to prior registration of the Trading Operator.
5. The Trading Operator Card must contain the following information:
  - a) Operator's name and full address,
  - b) The number, date of issue and validity;
  - c) Date and validity of the Trading Licence under which the Operator is registered; and
  - d) The name of the mineral product being traded.

## **ARTICLE 21**

### **(Validity of the card of the trading operator)**

1. The Operator Card is valid for 12 (twelve) months, renewable for equal periods and cannot exceed the validity of the respective Trading Licence.
2. The extension of the Operator Card is subject to the payment of the extension fee and subject to the payment of the annual trading fee pursuant to article 24.

## **ARTICLE 22**

### **(Non-transferability and extinction of the trading operator card)**

1. The Operator Card is non-transferable.
2. The Operator Card is terminated after verifying the following facts:

- a) Expiry;
- b) Seizure of the same due to illegal trading;
- c) Relinquishment of the activity by the holder of the respective licence or by the trading operator;
- d) Death of the respective operator; and
- e) Termination of the respective Licence, pursuant to article 16.

3. The seizure of the Operator Card under the terms of subparagraph b) of the previous paragraph does not imply the revocation of the respective Licence, provided it is proven that the Licence holder did not have any culpable or negligent involvement in the act that determined the seizure of the card.

### **ARTICLE 23**

#### **(Loss of licence or card)**

1. In the event of the loss of the Trading Licence or of the Trading Operator Card, the interested party must immediately communicate the fact to the entity in charge of processing the Trading Licence applications with jurisdiction over the area.
2. Having considered the circumstances in which the loss referred to in the previous paragraph has occurred, the lost document is considered cancelled and a duplicate of the same can be issued, with the period of validity coinciding with that of the lost document.
3. The issue of a duplicate of the lost document is subject to payment of the fee pursuant to article 24.

### **ARTICLE 24**

#### **(Fees)**

1. The processing, issuance and modification of applications and documents provided for in this regulation is subject to the payment of fees contained in Annex III to this regulation.
2. The processing and issuance of the Kimberley Process Certificate and the Certificate of Origin by the Kimberley Process Precious Metals and Gemstone Management Unit are subject to the payment of fees set out in Annex III to this regulation.

3. The fees referred to in this article must be paid at the Treasury receiver for the respective fiscal area.

4. The value of the fees referred to in this Regulation may be revised, by joint Ministerial Diploma of the Ministers who oversee the areas of finance and mineral resources.

## **ARTICLE 25**

### **(Destination of the value of the fees)**

The value of the fees referred to in the previous article will be distributed as follows:

- a) 60% for the State
- b) 40% for the Kimberley Process Precious Metals and Gemstone Management Unit.

## **SECTION II**

### **Diamonds**

#### **Article 26**

##### **(Diamond transactions)**

1. Only rough diamonds from countries participating in the Kimberley Process may be exported or imported.
2. Exporters, importers or their representatives must make a sworn declaration that the rough diamonds in their possession have not been illegally acquired and must present the respective Kimberley Process Certificate.
3. The sworn declaration shall be in the form set out in Annex I to the present regulation.

## **ARTICLE 27**

### **(Diamond export)**

1. The export of rough diamonds requires prior authorisation from the Kimberley Process Precious Metals and Gemstone Management Unit.

2. Applications for rough diamond export must be addressed to the Kimberley Process Precious Metals and Gemstone Management Unit and accompanied by the following elements:

- a) Identification of the exporter and the importer;
- b) Origin and/or provenance of rough diamonds;
- c) Weight of the shipment in carats and the respective value;
- d) Exporter's licence, obtained from the Ministry that oversees the area of Commerce;
- e) Unique Tax Identification Number - NUIT;
- f) Certificate of no outstanding tax due, issued by the respective Tax Directorate;
- g) Sworn Declaration by the exporter or, if a legal person, its representative, that the rough diamonds do not come from conflict zones;
- h) Macroscopic signature batch elements, including:
  - (i) Macroscopic description and photographs of the diamond batch;
  - (ii) Granularity frequency diagram;
  - (iii) Quality frequency diagram.

3. In those cases where the exporter is not the producer, proof that the batch of rough diamonds intended for export was acquired from the holder of a mining concession, mining certificate, mining pass or rough diamond trading licence, is made through the presentation of the original or certified copy of the purchase and sale receipts in the form defined by the Kimberley Process, Precious Metals and Gemstone Management Unit, [and it may be] required that, the lots within the same code are classified according to size to provide the greatest degree of homogeneity of the batches.

## **ARTICLE 28**

### **(Documents and expertise for diamonds)**

1. The Kimberley Process Precious Metals and Gemstone Management Unit may request the submission of technical documents, maps or elements necessary for the processing of the application.

2. The Kimberley Process Precious Metals and Gemstone Management Unit may contact the applicant or its representative in order to verify the accuracy of the information provided in the application regarding value, carat weight and mineralogical identification, without prejudice to the realisation of a technical expert examination, whenever there are doubts about the mineralogical origin and identification.

## **ARTICLE 29**

### **(Issuance of Kimberley Process Certificate)**

1. The Kimberley Process Precise Metals and Gemstone Management Unit must, within 3 (three) business days, assess the information accompanying the export application and, provided that the rough diamonds the subject of the application comply with Kimberley Process requirements, issue the corresponding Kimberley Process Certificate.

2. After the approval of the export and the issuance of the Kimberley Process Certificate, the competent entity must issue the respective export authorisation within 2 (two) business days.

## **ARTICLE 30**

### **(Payment on diamond export)**

1. The export of rough diamonds is subject to the following conditions:

- a) Prior payment of the Mining Production Tax; and
- b) Prior provision of a guarantee equal to the amount of tax due.

2. The provisions of the previous number do not apply where the diamond was acquired from titleholders of a mining concession, mining certificate or mining pass and it is proven that the diamonds were subject to taxation.

## **ARTICLE 31**

### **(Diamond packaging)**

1. Rough diamonds intended for export must be packed in tamper-proof packaging, sealed by Customs in the presence of a Technical Brigade of the Kimberley Process Precious Metals and Gemstone Management Unit and accompanied by the respective Kimberley Process Certificate.
2. Upon exportation, the original of the Kimberley Process Certificate will be placed in specific packaging, which will be sealed by the competent authority in the presence of the Technical Brigade of the Kimberley Process Precious Metals and Gemstone Management Unit.

### **ARTICLE 32**

#### **(Ownership and distribution of the Kimberley Process certificate)**

1. The Kimberley Process Certificate is the property of the State and is valid for 60 (sixty) days from the date of issue.
2. The original Kimberley Process Certificate and respective copies will be signed by two persons, one being the Executive Secretary of the Kimberley Process Precious Metals and Gemstone Management Unit representing the Ministry that oversees the area of Mine Resources as issuing entity and the other, the member of the National Kimberley Process, Precious Metals and Gemstone Council representing the Ministry that oversees the area of Commerce.
3. Copies of the Kimberley Process Certificate are to be distributed as follows:
  - a) One copy for the Kimberley Process Precious Metals and Gemstone Management Unit;
  - b) One copy to the entity that handles the Kimberley Process in the country of import;
  - c) One for the Bank of Mozambique;
  - d) One for the General Directorate of Customs; and
  - e) One other for the importer.

### **ARTICLE 33**

#### **(Kimberley Process certificate custody)**

1. The Kimberley Process Certificate template is deposited in the vault of the National Kimberley Process, Precious Metals and Gemstone Council.
2. The original Kimberley Process Certificate is deposited in the vault of the Kimberley Process Precious Metals and Gemstone Management Unit.

## **ARTICLE 34**

### **(Importation of diamonds)**

1. In order to import rough diamonds, an application must be submitted to the Ministry that oversees the area of Mineral Resources through the Kimberley Process Precious Metals and Gemstone Management Unit, which will coordinate with the Ministry that oversees the area of Commerce for the due review, after which the respective import authorisation will be issued by the competent entity.
2. The issuance of the import authorisation must observe the following principles and conditions;
  - a) Only rough diamonds accompanied by the Kimberley Process Certificate issued by the competent authority of the country of origin or provenance of the diamonds may be delivered to the importer;
  - b) Only rough diamonds packed in sealed and non-tampered packaging may be delivered to the importer;
  - c) The costs of processing the import process will be borne by the importer; who will also be responsible for the safe transport of rough diamonds within the national territory.
3. Once the legality of the importation is confirmed and within 3 (three) business days from the date of arrival of the shipment of rough diamonds at the point of entry into national territory, the Kimberley Process Precious Metals and Gemstone Management Unit issues the import validation certificate.
4. The importation of diamonds by a person authorized to extract under any of the mineral titles is not permitted.

## **ARTICLE 35**

### **(Diamond Transaction Report)**

1. Any rough diamond transaction must be reported in advance to the Kimberley Process Precious Metals and Gemstone Management Unit.
2. Any production and/or transaction of rough diamonds must be submitted to the Kimberley Process Precious Metals and Gemstone Management Unit by the 15th (fifteenth) day of the month following the month in which the production and/or transaction was carried out.
3. The provisions of the previous paragraph are applicable even if there has been no transaction/production during the month object of the declaration.
4. Buyers, sellers, exporters and importers of rough diamonds must maintain, for a period of five (5) years, written and electronic databases, with registers of daily records of purchase, sales, exports and imports, in which the name of buyers or sellers, the respective mineral title numbers, the quantity and value of diamonds sold, purchased, exported or imported.
5. In accordance with the procedures of the Kimberley Process Certification System, imports and exports of rough diamonds are reported to the Kimberley Process Precious Metals and Gemstone Management Unit for registration purposes within five (5) days upon receipt by the recipient.
6. The exporter must, within 10 (ten) days, deliver to the Kimberley Process Precious Metals and Gemstone Management Unit a copy of the document confirming receipt by the diamond importer.
7. The data contained in transaction reports are subject to confirmation by the Kimberley Process Precious Metals and Gemstone Management Unit at any time, regardless of prior notification to the registered owner or entity.
8. The Kimberley Process Management Precious Metals and Gemstone Unit must retain and maintain for a minimum period of five (5) years, the official data on the production, import, transit and export of diamonds, in order to allow the identification of buyers or sellers, the respective Mineral Title numbers, the quantity and value of diamonds that have been sold, exported, transited through the national territory or imported into the country.

### **SECTION III**

#### **Precious metals and gemstones**

## **ARTICLE 36**

### **(Transaction of precious metals and gems)**

1. Exporters, importers or their representatives must make a sworn declaration that the precious metals and gems in their possession were not acquired illegally and must present the respective supporting documentation.
2. The sworn declaration is in the form set out in Annex II to the present regulation.

## **ARTICLE 37**

### **(Export of precious metals and gemstones)**

1. The export of precious metals and gemstones requires prior authorisation from the Kimberley Process Precious Metals and Gemstone Management Unit.
2. Applications for the export of precious metals and gemstones are addressed to the Kimberley Process Precious Metals and gemstones Management Unit, accompanied by all the necessary elements to identify the exporter and importer, the origin and provenance of the precious metals or gemstones, the shipping weight and value, namely:
  - a) Identification of the exporter and the importer;
  - b) Origin and/or provenance of precious metals and gemstones;
  - c) Weight of the shipment in carats and the respective value;
  - d) Exporter's licence, obtained from the Ministry that oversees the area of Commerce;
  - e) Unique Tax Identification Number - NUIT;
  - f) Certificate of No Tax Due, issued by the respective Tax Directorate;
  - g) Sworn declaration by the Exporter or its representative, if it is a legal person, that the precious metals and gemstones do not come from conflict zones.
3. In the cases where the exporter is not a producer, it must demonstrate that the lot of precious metals and gems intended for export was acquired from the holder of a mining concession, mining certificate, mining pass for the production of precious metals or gems or trading licence

for precious metals or gemstones, through the presentation of the original or certified copy of the purchase and sale receipts using the template defined by the Kimberley Process Precious Metals and Gemstone Management Unit susceptible to document the chain of transactions.

### **ARTICLE 38**

#### **(Documents and expertise for precious metals and gemstones)**

1. The Kimberley Process Precious Metals and Gemstone Management Unit may request the presentation of technical documents, maps or other elements necessary for the application process.
2. The Kimberley Process Precious Metals and Gemstone Management Unit may contact the applicant or its representative, in order to verify the accuracy of the information provided in the period, regarding the value, weight and mineralogical identification, without prejudice to carrying out technical expertise reviews, when there is doubt about the mineralogical origin and identification and to order the respective correction.

### **ARTICLE 39**

#### **(Issuance of certificate of origin)**

1. The Kimberley Process Precious Metals and Gemstone Management Unit must assess the information accompanying the export request and, if it verifies the conformity of the precious metals or gemstones covered by the request, issue the respective Certificate of Origin, within a period of 5 (five) working days, without prejudice to the suspension of the period in the cases expressly provided for in this regulation.
2. After the approval of the export and the issuance of the Certificate of Origin, the competent entity must issue the respective export authorisation within 4 (four) working days.

### **ARTICLE 40**

### **(Export of precious metals and gemstones)**

1. All precious metals or gemstones destined for export are subject to the following conditions:
  - a) Prior payment of the Mining Production Tax; or
  - b) Prior provision of a guarantee equal to the amount of tax due.
2. The provisions of the previous number do not apply in cases where the precious metal or gemstone was acquired from the titleholders of a mining concession, mining certificate and mining pass and it is proven that it has been subject to taxation.
3. After the authorized sale of precious metals or gemstones, the holder must submit proof of said sale to the UGPK.

### **ARTICLE 41**

#### **(Packaging of precious metals and gemstones)**

1. Precious metals or gemstones destined for export must be packed in appropriate packaging, sealed by the General Directorate of Customs in the presence of the Technical Brigade of the Kimberley Process Precious Metals and Gemstone Management Unit and accompanied by the respective Certificate of Origin.
2. In the act of exportation, the original Certificate of Origin will be placed in a specific package and sealed by the competent entity, in the presence of the Technical Verification Brigade of the Kimberley Process Precious Metals and Gemstone Management Unit.

### **ARTICLE 42**

#### **(Certificate of Origin)**

1. The Certificate of Origin is the property of the State and will be valid for 60 (sixty) days from the date of issue.
2. The original of the Certificate of Origin and respective copies will be signed by two persons, one being the Executive Secretary of the Kimberley Process Precious Metals and Gemstone Management Unit representing the Ministry that oversees the area of Mineral Resources as issuing entity and another being the member of the National Kimberley Process Precious Metals and Gemstone Council as the representative of the Ministry that oversees the area of Commerce.

3. Copies of the Certificate of Origin will be distributed as follows:
  - a) One for the Kimberley Process Precious Metals and Gemstone Management Unit;
  - b) One for the Bank of Mozambique;
  - c) One for the General Directorate of Customs; and
  - d) Another one for the exporter.

### **ARTICLE 43**

#### **(Custody of Certificate of Origin)**

1. The Certificate of Origin template is deposited in the vault of the National Kimberley Process, Precious Metals and Gemstone Council.
2. The original Certificate of Origin is kept in the vault of the Kimberley Process Precious Metals and Gemstone Management Unit.

### **ARTICLE 44**

#### **(Import of Precious Metals and Gemstones)**

1. In order to import precious metals and gems, an application must be submitted to the Ministry that oversees the area of Mineral Resources through the Kimberley Process Precious Metals and Gemstone Management Unit, which will coordinate with the Ministry that oversees the area of Commerce for the due review, which will be followed by the issuance of the respective import authorisation by the competent authority.
2. Once the legality of the import is confirmed, the Kimberley Process Precious Metals and Gemstone Management Unit will issue an import validation certificate within 5 (five) business days from the date of arrival of the shipment of precious metals or gems at the point of entry into national territory.

### **ARTICLE 45**

#### **(Report of Precious Metals and Gemstone Transactions)**

1. Any transaction in precious metals or gemstones must be communicated in advance to the Kimberley Process Precious Metals and Gemstone Management Unit.
2. Any production and/or transaction of precious metals or gemstones must be submitted to the Kimberley Process Precious Metals and Gemstone Management Unit by the fifteenth (15th) day of the following month relating to the production and/or transaction carried out in the previous month.
3. The provisions of the previous paragraph are applicable even if there has been no transaction/production during the month covered by the declaration.
4. Buyers, sellers, exporters and importers of precious metals or Gemstone must keep for a period of five (5) years, written and electronic databases of daily records of purchases, sales, exports and imports specifying the name of the buyers or sellers, the respective Mineral Title numbers, the quantity and value of precious metals or gems sold, purchased, exported or imported.
5. The exporter must, within ten (10) days, deliver to the Kimberley Process Precious Metals and Gemstone Management Unit a copy of the document confirming receipt by the importer of the precious metals and gemstones.
6. The data contained in the transaction reports are subject to confirmation, at any time, by the General Inspectorate of the Ministry that oversees the Mineral Resources area and by the Kimberley Process Precious Metals and Gemstone Management Unit, regardless of prior notification to the titleholder or registered entities.
7. The Kimberley Process Precious Metals and Gemstone Management Unit shall retain and maintain for a minimum period of five (5) years, official data on the production, import, transit and export of precious metals and gemstones, in order to allow the identification of buyers or sellers, the respective Mineral title numbers, quantity and value of precious metals and gemstones that have been sold, exported, transited through the national territory or imported into the country.

## **SECTION IV**

### **Control**

## **ARTICLE 46**

### **(Inspection)**

1. The inspection of export, import, transit and laundering of money within the scope of this regulation is carried out by the Ministry's General Inspectorate, which oversees the Mineral Resources area and by the Technical Brigade of the Kimberley Process Precious Metals and Gemstone Management Unit.
2. The Technical Brigade of the Kimberley Process Precious Metals and Gemstone Management Unit comprises experts and specialists from the following sectors:
  - a) Mineral Resources and Energy;
  - b) Economy and Finance (Tax Authority);
  - c) Industry and Commerce; and
  - d) Interior.
3. In the act of import or export, the Technical Brigade of the Kimberley Process Precious Metals and Gemstone Management Unit shall inspect the shipment of rough diamonds, precious metals and gemstones to verify that the seals and packaging are intact and whether the import or export is accompanied by the Kimberley Process Certificate or Certificate of Origin.
4. If packaging or wrappings containing diamonds are accompanied by a Kimberley Process Certificate issued by the competent authority in the country of origin or provenance, but it is determined that such packaging or wrappings have been tampered with, the Kimberley Process Precious Metals and Gemstone Management Unit may, within a 30 (thirty) day period, and after the importer has been notified and the country of origin or provenance has been contacted about such fact, and it is not clarified within this period, determine that the rough diamonds be forfeited in favour of the State.
5. If it is determined that packages containing precious metals or gemstones have been tampered with, the Kimberley Process Precious Metals and Gemstone Management Unit, may determine the forfeiture of these in favour of the State, if within 30 (thirty) days after notification, the importer does not clarify this fact.

## **SECTION V**

### **Transit, possession and circulation**

#### **ARTICLE 47**

##### **(Transit)**

1. Shipments of rough diamonds in transit within the national territory, sent to and from countries participating in the Kimberley Process will not be opened or altered and will leave the country as entered, provided they are accompanied by the respective Kimberley Process Certificate, without prejudice to the legislation regarding customs transit.
2. Precious metals and gemstones in transit through the national territory require authorisation from the competent entity.

#### **ARTICLE 48**

##### **(Possession and circulation)**

1. Mineral titleholders or operators must register the possession of rough diamonds, precious metals and gemstones with the Kimberley Process Precious Metals and Gemstone Management Unit or their local representative.
2. Rough diamonds, precious metals or gemstones that are found in the possession of any person, in postal parcels, accompanied or unaccompanied baggage that do not have proof of purchase and sale will be seized and shall be forfeited to the State without prejudice to the provisions in article 49.
3. At ports, airports, border posts and other areas of transit of goods to and from the country, duly identified customs authorities, police officers as well as inspectors of the Ministry that oversees the area of Mineral Resources may whenever necessary, inspect any packaging, as well as any transport vehicles and may:
  - a) Seal and mark any packaging or container for transit or shipped for export that is in the said area or vehicle.
  - b) Search or having searched any passenger, crew member and any person boarding ships, aircraft or other means of transport;

- c) Board and search any type of boat, train or aircraft where it is suspected that there are rough diamonds, precious metals or gemstone being transported illegally.
- 4. Authorities that by law are exempt from the searching of their luggage are excluded from the provisions of this article.
- 5. The legal possession of rough diamonds, precious metals or imported gems will be attested by the respective import authorizations issued by the competent authorities.

## **CHAPTER IV**

### **Infractions and fines**

#### **ARTICLE 49**

##### **(Infractions and fines)**

- 1. For the purposes of this Regulation, the following situations constitute infractions, without prejudice to the application of criminal law:
  - a) Possession and circulation of rough diamonds, precious metals or gemstones without proof of purchase and sale issued in accordance with the Mining Law Regulation, is punishable by the sanction of confiscation of the rough diamonds, precious metals or gemstones, confiscation of the equipment and means used for its transport, forfeiture of the same to the State, without prejudice to the additional sanctions provided for under article 349 of the Penal Code;
  - b) The import or other form of introduction of rough diamonds into the national territory without the respective Kimberley Process Certificate, issued by the competent authority of the country of origin or provenance, is punishable by a fine equivalent to the value of the diamonds in question and confiscation thereof;
  - c) The import or other form of introduction of precious metals or gemstones into the national territory without the proper authorisation issued by the competent entity, is punishable by a fine equal to the value of the precious metals or gemstones in question and confiscation thereof;

d) Violation of the provisions of article 13 on the duties of holders, is punishable by a fine of 300,000.00 Meticals;

e) Obstruction of inspection activity, is punishable by a fine of 300,000.00 Meticals;

f) Non-delivery, concealment or provision of false information during an inspection, is punishable by a fine of 250,000.00 Meticals, which may be increased up to twice the value of the diamonds, precious metals or gemstones in question, in cases of recurrence.

2. Without prejudice to the preceding paragraph, the possession and circulation of rough diamonds, precious metals or gemstones without proof of purchase and sale may be subject to a more serious penalty, in cases of recurrence, without prejudice to criminal proceedings.

## **ARTICLE 50**

### **(Update of fines)**

The value of the fines referred to in this regulation may be revised every two years, by joint Ministerial Diploma of the Ministers who oversee the areas of Finance and Mineral Resources.

## **ARTICLE 51**

### **(Destination of Fines)**

The fines referred to in article 49 will be distributed as follows:

a) 40% to the State; and

b) 30% for the Kimberley Process Management Unit,

c) 30% for General Inspectorate of Mineral Resources and Energy.

## **ARTICLE 52**

### **(Destination of seized minerals)**

1. Mineral products seized as a result of illegal trade, possession and circulation revert to the State.

2. The Kimberley Process Management Unit is the trustee of seized diamonds, precious metals and gemstones.

3. After evaluation by the competent entity, the mineral products referred to in the previous number are sold at public auction by the Kimberley Process Management Unit, and the result of the sale is distributed as follows:

- a) 60% for the State;
- b) 40% for the Kimberley Process Precious Metals and Gemstone Management Unit.

### **ARTICLE 53**

#### **(Destination of confiscated equipment and assets)**

1. Equipment and means confiscated, including monetary values, as a result of the illegal sale, possession and circulation of mineral products revert to the State.
2. The forfeiture in favour of the State of confiscated equipment and means, under the terms of the previous number, is made through their registration in the respective registries after verification of their legality and direct allocation for purposes of public interest.
3. The administration of the registration process referred to in the previous paragraph is carried out by the General Inspectorate of the Ministry that oversees the area of Mineral Resources, in coordination with the National Directorate of State Patrimony.

### **CHAPTER V**

#### **Final dispositions**

### **ARTICLE 54**

#### **(Kimberley Process Certificate Template)**

The Kimberley Process Precious Metals and Gemstone Management Unit shall maintain the Kimberley Process Certificate templates in use in other participating countries.

**ARTICLE 55**

**(Statistical data)**

1. The Kimberley Process Precious Metals and Gemstone Management Unit shall keep up-to-date global statistical data on the production, import and export of rough diamonds, precious metals and gemstones as well as copies of duly certified export authorizations and imported shipments.
2. The Kimberley Process Precious Metals and Gemstone Management Unit shall maintain information on the production of rough diamonds, precious metals and gemstones, detailing the carat weight, local production value and qualities.

**ARTICLE 56**

**(Regularization of rights)**

Holders of a Licence for the Trading of Diamonds, Precious Metals and Gemstones are granted a period of 90 (ninety) days from the date of entry into force of this Regulation, to regularize their rights and duties under this Regulation.

**ARTICLE 57**

**(Omissions)**

In all that is omitted in this regulation, the provisions of the Mining Law Regulations apply, with the necessary adaptations.

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**ANNEX I**

**Sworn Declaration for Diamonds**

I (.....), seller declare on my honour that the diamonds which are the subject of this transaction were acquired from legal sources not involved in the financing

of armed conflicts, in compliance with the provisions of resolution No. 55/56 of 2000, of the Assembly General at the United Nations. B (...), warrants that, based on their personal knowledge and/or guarantee given in writing by the suppliers, this diamond is not a conflict diamond.

## ANNEX II

### Sworn Declaration for Precious Metals and gemstones

I (.....), seller, I hereby declare on my honour that the precious metals and/or gems object of this transaction were acquired from lawful sources. B (...), warrants that, based on their personal knowledge and/or the guarantee given in writing by the supplier, these precious metals and/or gemstones come from legal activity.

<b>ANNEX III Licencing fees</b>		
	Applications	Valor (MT)
1	Processing	10.000.00
2	Trading Licence: *Diamonds, Precious Metals and Gemstones	100.000.00
3	Renewal	120.000.00
4	Trading Operator Card: *Diamonds *Precious Metals *Gemstones	75.000.00 50.000.00 50.000.00
5	Registration of a Transfer: *Diamonds, Precious Metals and Gemstones	35.000.00
6	Copy of a Licence/ Certificate: *Diamonds, Precious Metals and Gemstones	15.000.00
7	Copy/ extract of any archived registration (p/page): *Diamonds, Precious Metals and Gemstones	10.000.00
8	Registration of a Trading Operator	

		*Diamonds	180.000.00 for a collective person 150.000.00 for an individual person,
		*Precious Metals & Gemstones	150.000.00 for a collective person 120.000.00 for an individual person
	9	Issuance of a Kimberley Process Certificate	250.000,00
	10	Issuance of a Certificate of Origin for Precious Gemstones	200.000.00
		Issuance of a Certificate of Origin for Precious Metals up to 1999g	100.000.00
		Issuance of a Certificate of Origin for Precious Metals above 2000g	200.000.00
		Issuance of a Certificate of Origin for Semi-Precious Gemstones	50.000,00
	11	Authorisation for export or import of Precious Metals and Gemstones	50.000.00
		Authorisation for export of Semi-Precious Gemstones	30.000,00