

**Kimberley Process Certification Scheme
(KPCS)**

ANNUAL REPORT 2017

in accordance with Section VI, paragraph 11 of the KPCS document

Switzerland

29 March 2018

Introductory Remarks

The present report is submitted in accordance with section VI, paragraph 11 of the KPCS document and the Guidelines for the preparation of annual reports contained in Annex I of the Administrative Decision (AD) on the Implementation of Peer Review in the KPCS.

The layout of the report has been adjusted following the 2014 Working Group on Monitoring (WGM) Guidance Note on Suggestions for New Annual Report Template. References to earlier submitted reports were abolished. Instead, information on the different aspects of Switzerland's implementation of the KPCS is presented in sections A to E, which cover both constant elements as well as details relating specifically to the year under review. Current information is presented in a graphically separated rubric. Sections F to H however cover only the current reporting period.

A. Institutional Framework

Responsibility for the implementation of the KPCS

The overall responsibility for the implementation of the KPCS in Switzerland lies with the State Secretariat for Economic Affairs (SECO). SECO is:

- the designated importing and exporting authority for rough diamonds.
- entitled to prosecute violations of the Swiss legislation implementing the KPCS.
- in charge to conduct the negotiations in the Kimberley Process (KP).
- responsible to gather and record data based on the Kimberley certificates and to edit the data in order to fulfil the statistical reporting requirements.

SECO closely cooperates with the Swiss customs authorities. They are responsible:

- for the border controls.
- for prosecution of the customs law that also applies to rough diamond trade.

Point of contact and official coordinator

The person of contact for matters related to the KPCS and the official coordinator dealing with its implementation in Switzerland is

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These contact details are to be used also for the purpose of import confirmation according to the AD on import confirmation adopted in Kinshasa in November 2011.

Changes in the year under review: None.

B. Legal Framework

National implementation of the KPCS is based on the Ordinance on the international trade in rough diamonds (Diamond Ordinance, RS 946.231.11)¹. The ordinance regulates the import, export, transit and customs warehouse procedure for rough diamonds falling under customs tariff subheadings 7102.10, 7102.21 and 7102.31.

As Switzerland forms a customs union with the Principality of Liechtenstein since 1923, the Diamond Ordinance also applies to the territory of the Principality.

Import, export and customs warehouses

The import of rough diamonds is only permitted when a participant's certificate accompanies the shipment, if the diamonds are placed in sealed and tamper resistant containers and if it is clearly visible that the certificate pertains to the shipment (art. 3 of the Ordinance). The export (art. 4) is authorized only if the shipment is intended for a participant and if a Swiss certificate validated by customs accompanies it. A certificate will be validated only if the content of a shipment corresponds to the data on the certificate and if the rough diamonds were previously shipped to Switzerland from a participant. A transitional provision (art. 13) allows a certificate to be endorsed also if the rough diamonds destined to be exported were in Switzerland before 1 January 2003, date of the entry into force of the Diamond Ordinance. Swiss Certificates can be obtained from SECO. Moreover, to be authorized for export, rough diamonds must be sealed in tamper resistant containers and as for the import, it must be clearly visible that the certificate pertains to the shipment.

The provisions for import and export apply also to temporary import and export (art. 5) and to storage in and release from customs warehouses (art. 7). However, if rough diamonds shipments remain under customs control, the measures for import and export will not apply for transit through Switzerland (art. 6).

Customs offices competent for clearance of rough diamonds are limited (art. 8.1.). Currently, clearance is allowed only at the offices of Basel Airport, Geneva Airport and Zurich Airport. The Directorate-General for Customs, in consultation with SECO, has the possibility to authorize additional customs offices for clearance of rough diamonds (art. 8.2.). This is the case for instance during the BASELWORLD fair, when clearance is temporarily permitted at the fair's customs office.

Internal Controls

To control diamond traders in Switzerland, article 9 obliges them to keep for a period of five years all essential documents related to the trade in rough diamonds and to hand them over to the competent authorities if requested. As mentioned, the controlling body is SECO, which is entitled to order confiscation of forfeiture if justified (art. 10). Border controls are the responsibility of the Federal Customs Administration.

The Diamond Ordinance is based on the Federal Law on the implementation of international sanctions (Embargo Act, RS 946. 231)², which specifies the powers of the supervisory authorities. In accordance with this act, supervisory authorities have the right to enter, to inspect business premises and to examine relevant documentation without prior notice. If needed, they can request assistance of the police or of investigating officers of the customs administration.

¹ The Diamond Ordinance is published in the Compendium of Federal Law (Recueil systématique du droit fédéral - RS) and may be downloaded from the Confederation's website www.admin.ch in German, French and Italian. An unofficial English translation is attached to the present report.

² The Embargo Act is published in the Compendium of Federal Law (Recueil systématique du droit fédéral - RS) and may be downloaded from the Confederation's website www.admin.ch in German, French and Italian.

Penalties

Violations of the Diamond Ordinance will also be punished in accordance with the Embargo Act, which provides severe penalties for transgression of the certification regime. The heaviest penalty foresees five years of imprisonment and a fine of up to 1 million Swiss francs.

Finally, the Embargo Act provides for administrative and legal assistance between Swiss and foreign authorities.

Changes in the year under review: None.
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C. Import and Export Regime

General Remarks

Switzerland is a transit hub for rough diamonds. There is only very limited import and export. Most of the rough diamond transactions (>99%) concern storage in and release of storage from customs warehouses. Trading within Switzerland is also marginal.

It is important to underline, that no distinction is made between imports/exports and storage/release from storage in terms of KPCS procedures: The same requirements and provisions apply for both type of transactions.

The Swiss implementation of the KPCS foresees no specific license for trade in rough diamonds. Every company or individual involved in such trade must however register when applying for a Swiss export certificate. Moreover, the Swiss system is based on the principle of self-declaration. Therefore, exporters are required to fill in the Kimberley certificates themselves. The verification of diamond shipments is carried out at the moment of import/storage or export/release from storage through customs.

Incoming shipments (import or storage in customs warehouse)

Prior notifications

Switzerland receives prior notifications of rough diamond shipments from Botswana, Cameroon, EU (Germany and United Kingdom), Hong Kong, India, Singapore, South Africa, Thailand and the United Arab Emirates.

Sequence of events for incoming shipments

Upon their arrival at a competent customs office, rough diamond shipments are controlled by Customs i.e. verification of the seals, the container and the certificate. On a case-by-case basis, the shipments are also physically inspected by weighing. In case of irregularities, SECO is informed. Depending on the problem, the shipment can be temporarily seized, confiscated or returned to the sender.

When questions arise regarding the validity of a Kimberley Certificate, SECO confers with the official KP coordinator of the respective trading partner in order to determine with certainty the validity of the document. Advice is also sought from the Chair of the Working Group on Diamond Experts (WGDE), for example for valuation issues, questions relating to origin or classification. Collaboration with the WGDE is intensified when special vigilance measures are in place.

Compliant shipments are cleared for import. They are given a unique identification number if they are stored in the customs warehouse. The original certificate is stamped by customs and sent to SECO. An authenticated copy of the certificate is delivered to the importer. If he wants to re-export the diamonds or part of them, the copy will serve as a proof that they have been imported into Switzerland according to the provisions of the KPCS.

Confirmation of receipt – Safekeeping of certificates

Upon receipt of the original certificate, SECO sends a confirmation of import to the relevant exporting authority by mail as well as by return slip, if the certificate includes one. The original certificates are filed and kept accessible in the offices of SECO for at least ten years.

Outgoing shipments (export or release from customs warehouse)

Procedure for issuing KP certificates

Registration to obtain a Swiss certificate must be addressed to SECO by submitting a specific application form that can be downloaded from SECO's website. Companies or individuals must indicate all their details. For operations in customs warehouses, diamond traders may run their business from abroad with the assistance of local shipping companies. In such cases, SECO requires also the details of the shipping company and at least one of the addresses must be located in Switzerland.

Per application form, a maximum of five certificates can be requested. When applying, exporters might not know what rough diamonds will be exported with the requested certificates. As a result the evidence that a rough diamond shipment has been handled in accordance with the KPCS can only be requested either at the moment of export (i.e. customs hold back the shipment until the trader has submitted the evidence to SECO) or retrospectively (i.e. on the basis of article 9 of the Diamond Ordinance). Such evidence includes in particular the copies of the Kimberley certificates that accompanied the diamonds on their import into Switzerland as well as other relevant documents such as the invoice or the customs declaration. Prior to the export and the validation of the certificate by customs, the trader however declares by signing the certificate, that the diamonds to be exported have been handled in accordance with the KPCS i.e. imported from a participant to the KPCS with a valid certificate.

For rough diamonds imported before the entry into force of the Diamond Ordinance, the transitional provision in article 13 is applicable. When applying for a certificate, an exporter must indicate if the rough diamonds to be exported are pre-Kimberley stocks and SECO will ask for evidence of the declaration made.

Certificate

Upon receipt of the application form SECO sends the certificate(s) to the exporter or the shipping company for a fee of 50 Swiss francs per certificate. Certificates have a validity period of 60 days as of the date of issuance.

The Swiss Kimberley certificate fulfills all the minimal requirements set out in Annex I of the KPCS document. The specific security features include:

- Offset inks with fluorescence in UV yellow and red
- Two text inks (metamerism in IR white and IR black)
- Intaglio printing border with latent image
- Rainbow printing effect

In addition to the minimal requirements, the certificate includes the recommended but optional import confirmation slip. When issued the certificate carries a unique numbering on the main part of the certificate and the return slip.

Customs procedure for outgoing shipments

As mentioned previously, traders complete their own certificates for a specific export. At the time of customs clearance, the shipment is inspected. As for import, the verification of the certificate is complemented on a case-by-case basis by a physical examination. If no irregularities are established, customs validate the certificate by stamping it. The exporter, customs and SECO keep photocopies of the validated certificate. Exporters must seal the diamonds together with the certificate in a tamper proof container in front of the customs officer.

Non-confirmed certificates

Switzerland exchanges lists of non-confirmed exports with its trading partners.

Changes in the year under review: None.
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D. System of internal controls and Industry Self-Regulation

System of internal controls

As mentioned, trade of rough diamonds inside of Switzerland is not subject to any specific legislation.

However, to control diamond traders in Switzerland, article 9 of the Diamond Ordinance obliges them to keep for a period of five years all essential documents related to the trade in rough diamonds and to hand them over to the competent authorities if requested. In addition, SECO is entitled to control the business of diamond traders at any moment and to order confiscation or forfeiture if justified.

Oversight of the rough diamond trade is also carried out via SECO's electronic database. This tool contains details of every individual or company involved in the diamond trade and captures all import and export transactions of rough diamonds. The database allows for the connection between incoming and outgoing parcels through the unique identification numbering allocated to parcels stored in the customs warehouses. This traceability instrument also helps SECO to monitor the changes in value between import and export. In case of important fluctuations, the companies involved will have to submit explanatory statements and evidence to support their case.

Finally, since 2007, new customs legislation obliges all companies operating in the free-ports to keep an inventory.

Industry Self-Regulation

As mentioned in the KPCS document, the industry self-regulation measures are voluntary and governments cannot oblige the industry to take part. The Swiss legislation does not include any reference to the principles of self-regulation.

However, the Ethics Code of the Swiss watch and Jewellery industry adopted in 2006, which specifically refers to the rules of the Kimberley Process and the World Diamond's system of warranties, is widely adhered to by the industry.

In order to create and maintain awareness for the KPCS, the Swiss authorities closely work together with the association of the Swiss gem industry for different outreach activities.

Changes in the year under review: None.

E. Statistics

The Swiss statistical data has been submitted in accordance with annex III of the KPCS document via the statistics website (quarterly data on imports and exports, as well as certificate count per participant). Bilateral reconciliation with trading partners is carried out on an ongoing basis.

Since 2011, following the AD on the use of Kimberley Process Certificates based data, adopted at the Jerusalem Plenary in November 2010, Switzerland reports its data based on the date of certificate issuance.

Changes in the year under review: None.

F. Implementation of Recommendations of Kimberley Process Review Visits

Following recommendation 1 of the second Review Visit to Switzerland in 2012, Switzerland conducted a pilot project in collaboration with the AWDC. During one week, an official diamond valuator was assigned to physically inspect, weigh and value every parcel of rough diamonds entering and leaving Switzerland. The results of these verifications were all consistent with the declarations made on the respective Kimberley Process Certificates. The project was very insightful and Switzerland is now working on ways to integrating the lessons learnt in its standard KP implementation.

G. Infringements and Cooperation with Respect to Enforcement

Undeclared rough diamond without KP certificate

The Swiss Border Guard discovered an undeclared rough diamond without certificate during a routine inspection. The diamond was valued at 1000 USD and was definitively confiscated.

Postal shipment without KP certificate

Swiss Customs uncovered a postal shipment of rough diamonds without a KP certificate. The shipment contained six rough diamonds valued at 90 USD. The diamonds have been definitively confiscated.

Mutual legal assistance (MLA) request

Switzerland executed a MLA request submitted by one of its trading partners.

H. Miscellaneous

Participation in Working Groups and other Committees

As in previous years, Switzerland actively participated in the work of the Working Group on Statistics (WGS), the Committee on Rules and Procedures (CRP) and the Committee on Participation and Chairmanship (CPC).

Participation in Review Visits

In January 2017, Switzerland led the Review Visit Team to Norway with representatives from the EU, Israel and the WDC. The Review Visit Report was finalized by April 2017 and presented to the WGM during the Perth Intersessional Meeting.

Central African Republic

Customs offices continue to exert special vigilance with regard to shipments possibly originating from the Central African Republic based on the relevant footprint.

Annex: Ordinance on the international trade in rough diamonds (unofficial translation)