

DECISIONS

COUNCIL DECISION No 136/2014/EU

of 20 February 2014

laying down rules and procedures to enable the participation of Greenland in the Kimberley Process certification scheme

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 203 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) The European Union is a participant in the Kimberley Process certification scheme for the international trade in rough diamonds ('KP certification scheme'). As a participant it has to ensure that a certificate accompanies each shipment of rough diamonds imported into or exported from the territory of the Union.
- (2) Council Regulation (EC) No 2368/2002 ⁽²⁾ sets up a Union system of certification and import and export controls for rough diamonds for the purposes of implementing the KP certification scheme.
- (3) Greenland is not part of the Union territory but it is included in the list of overseas countries and territories set out in Annex II to the Treaty on the Functioning of the European Union (TFEU). In accordance with Article 198 TFEU, the purpose of the association of the overseas countries and territories with the Union is to promote the economic and social development of the overseas countries and territories and to establish close economic relations between them and the Union as a whole.
- (4) Denmark and Greenland have requested to enable the participation of Greenland in the KP certification scheme on rough diamonds through its cooperation with the Union. Such cooperation would strengthen economic relations between the Union and Greenland in the diamond industry, and in particular it would

enable Greenland to export rough diamonds accompanied by the EU Certificate issued for the purposes of the certification scheme, with a view to promoting the economic development of Greenland.

- (5) Trade in rough diamonds in Greenland should, therefore, be conducted in compliance with Union rules implementing the KP certification scheme for the international trade in rough diamonds. Accordingly, the scope of application of Regulation (EC) No 2368/2002 will be extended by Regulation (EU) No 257/2014 of the European Parliament and of the Council ⁽³⁾ to the territory of Greenland for the purpose of the certification scheme.
- (6) In particular, Greenland should only export rough diamonds to other participants in the KP certification scheme after they have been certified by a Union authority listed in Annex III to Regulation (EC) No 2368/2002. Imports of rough diamonds into Greenland should also be verified by the Union authorities.
- (7) In order to permit the international trade in rough diamonds in Greenland, in accordance with the rules on trade within the Union, Greenland should undertake to transpose the relevant provisions of Regulation (EC) No 2368/2002 into the national law of Greenland so as to allow the application of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Subject matter and scope

This Decision sets out the general rules and conditions for the participation of Greenland in the system of certification and import and export controls for rough diamonds set out in Regulation (EC) No 2368/2002. To that end, this Decision lays down rules and procedures for the application of the Kimberley Process certification scheme ('KP certification scheme') for rough diamonds imported into or exported from Greenland, either to the Union or to other participants in the KP certification scheme.

⁽¹⁾ Opinion of 4 February 2014 (not yet published in the Official Journal).

⁽²⁾ Council Regulation (EC) No 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds (OJ L 358, 31.12.2002, p. 28).

⁽³⁾ Regulation (EU) No 257/2014 of the European Parliament and of the Council of 26 February 2014 amending Council Regulation (EC) No 2368/2002 as regards the inclusion of Greenland in implementing the Kimberley Process certification scheme (see page 69 of this Official Journal).

*Article 2***Definitions**

For the purposes of this Decision, the following definitions apply:

- (a) the definition of 'Participant' means 'Participant' as set out in point (c) of Article 2 of Regulation (EC) No 2368/2002;
- (b) the definition of 'Union authority' means the 'Community authority' as set out in point (f) of Article 2 of Regulation (EC) No 2368/2002;
- (c) the definition of 'EU certificate' means the 'Community certificate' as set out in point (g) of Article 2 of Regulation (EC) No 2368/2002.

*Article 3***General rules**

1. Greenland shall ensure that Regulation (EC) No 2368/2002 is transposed in the legislative provisions applicable to Greenland as regards the conditions and formalities for importing and exporting rough diamonds, their transit through the Union from and to a participant other than the Union, the participation of the Union, including Greenland, in the KP certification scheme, obligations relating to due diligence, anti-circumvention, exchange of information, and ensuring compliance with such provisions.

2. Greenland shall designate the authorities responsible for implementing the relevant provisions of Regulation (EC) No 2368/2002 within its territory and communicate to the Commission the designation and the contact details of such authorities.

*Article 4***Import into the Union of rough diamonds mined or extracted in Greenland**

1. Rough diamonds mined or extracted in Greenland may be imported into the Union only where:

- (a) they are accompanied by the attesting document referred to in paragraph 2;
- (b) they are contained in tamper-resistant containers and the seals applied at export are not broken;
- (c) the attesting document referred to in paragraph 2 clearly identifies the consignment to which it refers;
- (d) the rough diamonds have not been previously exported to a participant other than the Union.

2. To allow rough diamonds mined or extracted in Greenland to be imported into the Union, the competent authority for Greenland listed in Annex II ('Greenland authority') shall upon request issue an attesting document conforming to the requirements set out in Annex I.

3. The Greenland authority shall deliver the attesting document to the applicant and shall keep a copy for three years for record-keeping purposes.

4. Acceptance of a customs declaration for release for free circulation pursuant to Council Regulation (EEC) No 2913/92⁽¹⁾ of rough diamonds referred to in paragraph 1 of this Article shall be subject to the verification by a Union authority listed in Annex III to Regulation (EC) No 2368/2002 of the attesting document issued in accordance with paragraph 2 of this Article. To this effect, containers of rough diamonds mined or extracted in Greenland shall, on import to the Union, be submitted without delay for verification to an appropriate Union authority.

5. If a Union authority establishes that the conditions in paragraph 1 are fulfilled, it shall confirm this on the original attesting document and provide the importer with an authenticated and forgery-resistant copy of that attesting document. This confirmation procedure shall take place within ten working days of the submission of the attesting document.

6. The Member State into which rough diamonds are imported from Greenland shall ensure their submission to the appropriate Union authority. The exporter shall be responsible for the proper movement of the rough diamonds and the costs thereof.

7. In case of doubts relating to the authenticity or correctness of an attesting document issued in accordance with paragraph 2, and in cases where further advice is required, the customs authorities shall contact the Greenland authority.

8. The Union authority shall keep the originals of attesting documents referred to in paragraph 2 submitted for verification for at least three years. It shall provide the Commission or persons or bodies designated by the Commission with access to those original attesting documents in particular with a view to answering questions raised within the framework of the KP certification scheme.

*Article 5***Any subsequent imports of rough diamonds mined or extracted in Greenland into the Union**

Notwithstanding Article 4, rough diamonds mined or extracted in Greenland may be imported into the Union where:

- (a) they were previously lawfully re-exported from the Union to Greenland;
- (b) they are accompanied by an authenticated and forgery-resistant copy of the attesting document referred to in Article 4(2) as validated by a Union authority pursuant to Article 4(5).

⁽¹⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

- (c) they are contained in tamper-resistant containers and the seals applied at export are not broken;
- (d) the document referred to in point (b) clearly identifies the consignment to which it refers;
- (e) the rough diamonds have not been previously exported to a participant other than the Union.

Article 6

Other imports into the Union of rough diamonds from Greenland

Notwithstanding Articles 4 and 5, rough diamonds from Greenland may be imported into the Union where:

- (a) they were previously lawfully exported from the Union to Greenland;
- (b) they are accompanied by the document referred to in point (b) of Article 9;
- (c) they are contained in tamper-resistant containers, and the seals applied at export are not broken;
- (d) the document referred to in point (b) of Article 9 clearly identifies the consignment to which it refers.

Article 7

Export of rough diamonds from Greenland to other participants

1. Rough diamonds may be exported from Greenland to a participant other than the Union only where:

- (a) they were first lawfully imported from Greenland into the Union in accordance with Articles 4(1), 5 or 6;
- (b) on importation into the Union, they were submitted for verification to a Union authority;
- (c) they are accompanied by a corresponding EU certificate issued and validated by a Union authority;
- (d) they are contained in tamper-resistant containers sealed in accordance with Article 12 of Regulation (EC) No 2368/2002.

2. A Union authority to which rough diamonds imported from Greenland into the Union are submitted for verification shall issue a EU certificate to the exporter of such diamonds in accordance with Article 12 of Regulation (EC) No 2368/2002.

3. A Member State into which rough diamonds are imported from Greenland shall ensure their submission to the appropriate Union authority.

4. The exporter shall be responsible for the proper movement of the rough diamonds and the costs thereof.

Article 8

Re-export from the Union into Greenland of rough diamonds mined or extracted in Greenland

Rough diamonds mined or extracted in Greenland may be re-exported to Greenland from the Union where:

- (a) they were first lawfully imported from Greenland into the Union in accordance with Articles 4(1), 5 or 6;
- (b) they are accompanied by an authenticated and forgery-resistant copy of the attesting document referred to in Article 4(2) as validated by a Union authority pursuant to Article 4(5);
- (c) they are contained in tamper-resistant containers, and the seals applied at export are not broken;
- (d) the document referred to in point (b) clearly identifies the consignment to which it refers,
- (e) the rough diamonds have not been previously exported to a participant other than the Union.

Article 9

Other imports into Greenland of rough diamonds from other participants

Notwithstanding Article 8, rough diamonds may be exported into Greenland from the Union where:

- (a) they were first lawfully imported into the Union from a participant other than the Union in accordance with Chapter II of Regulation (EC) No 2368/2002;
- (b) they are accompanied by an authenticated and forgery-resistant copy of the confirmed certificate in accordance with point (a) of Article 5(1) of Regulation (EC) No 2368/2002;
- (c) they are contained in tamper-resistant containers and the seals applied at export are not broken;
- (d) the document referred to in point (b) clearly identifies the consignment to which it refers.

Article 10

Reporting

1. The Greenland authority shall provide the Commission with a monthly report on all attesting documents issued under Article 4(2).

2. For each attesting document this report shall list at least:

Article 11

- (a) the unique serial number of the attesting document,
- (b) the name of the issuing authority, as listed in Annex II,
- (c) the date of issue,
- (d) the date of expiry of validity,
- (e) the country of origin,
- (f) the Harmonised Commodity Description and Coding System code(s) ('HS code'),
- (g) the carat weight,
- (h) the value (estimated).

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from the day Greenland notifies the Commission that it has implemented in national law the relevant provisions of Regulation (EC) No 2368/2002 to allow the inclusion of Greenland in the KP certification scheme.

Done at Brussels, 20 February 2014.

For the Council
The President
K. HATZIDAKIS

ANNEX I

Attesting document as referred to in Articles 4, 5, 8 and 10

The attesting document referred to in Articles 4, 5, 8 and 10 shall have at least the following features:

- (a) unique serial number,
 - (b) the date of issue,
 - (c) the date of expiry of validity,
 - (d) the name, signature and stamp of the issuing authority identified in Annex II,
 - (e) the country of origin (Greenland),
 - (f) the HS code(s),
 - (g) the carat weight,
 - (h) the value (estimated),
 - (i) identification of the exporter and the recipient.
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*ANNEX II***Competent authority for Greenland as referred to in Articles 3(2), 4 and 10**

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