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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure ([1]),

Whereas:

(1) Council Regulation (EC) No 2368/2002 ([2]) sets up a Community System of certification and import and export controls for rough diamonds for the purposes of implementing the Kimberley Process certification scheme.

(2) 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.

(3) Council Decision 2014/136/EU ([3]) sets out the rules and procedures enabling Greenland's participation in the Kimberley Process 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.

(4) Regulation (EC) No 2368/2002 should be amended in order to enable Decision 2014/136/EU to enter into force and in particular to provide for the inclusion of Greenland in the certification scheme.

(5) Accordingly, Greenland will be prohibited from accepting imports or exports of rough diamonds to or from a participant other than the Union without a valid certificate. The amendments contained in this Regulation will allow for the export of rough diamonds from Greenland to third countries as long as they are accompanied by the EU Certificate.

(6) In addition to the existing condition for certification requiring evidence that the rough diamonds were lawfully imported into the Union, an alternative condition should be introduced for diamonds mined and extracted in Greenland that have never been exported before, in particular to provide evidence in this regard.

(7) In addition, amendments should be made to the detailed arrangements for submitting rough diamonds to Union authorities for verification, extending to Greenland the special rules for transit, enabling Greenland's participation in the Committee for the implementation of Regulation (EC) No 2368/2002 and providing for Greenland's representation in the Kimberley Process and cooperation with other Member States through the Commission.

(8) Regulation (EC) No 2368/2002 should therefore be amended accordingly,

([1]) Position of the European Parliament of 4 February 2014 (not yet published in the Official Journal) and decision of the Council of 20 February 2014.

([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]) Council Decision 2014/136/EU of 20 February 2014 laying down rules and procedures to enable the participation of Greenland in the Kimberley Process certification scheme (See page 99 of this Official Journal).

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2368/2002 is amended as follows:

(1) Article 1 is replaced by the following:

'*Article 1*

This Regulation sets up a Union system of certification and import and export controls for rough diamonds for the purposes of implementing the Kimberley Process certification scheme.

For the purposes of the certification scheme, the territory of the Union and that of Greenland shall be considered as one entity without internal borders.

This Regulation does not prejudice or substitute any provisions in force relating to customs formalities and controls.';

(2) in Article 3, the introductory phrase is replaced by the following:

'The import of rough diamonds into the Community (*) territory or Greenland shall be prohibited unless all of the following conditions are fulfilled:

(*) With effect from 1 December 2009 the Treaty on the Functioning of the European Union introduced certain changes in terminology, such as the replacement of "Community" by "Union".';

(3) in Article 4, paragraph 1 is replaced by the following:

'1. Containers and the corresponding certificates shall without delay be submitted for verification together, to a Community authority either in the Member State where they are imported or in the Member State for which they are destined, as indicated in accompanying documents. Containers destined for Greenland shall be submitted for verification to one of the Community authorities, either in the Member State where they are imported, or in one of the other Member States where a Community authority is established.';

(4) in Article 8, paragraph 1 is replaced by the following:

'1. The Commission shall consult participants on the practical arrangements for providing the competent authority of the exporting participant that has validated a certificate with confirmation of imports into the Community territory or Greenland.';

(5) in Article 11, the introductory phrase is replaced by the following:

'The export from the Community territory or Greenland of rough diamonds shall be prohibited unless both of the following conditions are fulfilled:';

(6) in Article 12(1), point (a) is replaced by the following:

'(a) the exporter has provided conclusive evidence that:

(i) the rough diamonds for which a certificate is being requested were lawfully imported in accordance with Article 3; or

(ii) the rough diamonds for which a certificate is being requested were mined or extracted in Greenland in case the rough diamonds have not been previously exported to a participant other than the Union.';

(7) Article 18 is replaced by the following:

'*Article 18*

Articles 4, 11, 12, and 14 shall not apply to rough diamonds which enter the Community territory or Greenland solely for the purposes of transit to a participant outside those territories, on condition that neither the original container in which rough diamonds are being transported nor the original accompanying certificate issued by a competent authority of a participant has been tampered with at entry into or exit from the Community territory or Greenland, and the transit purpose is clearly attested by the accompanying certificate.';

(8) Article 21 is replaced by the following:

'*Article 21*

1. The Union, including Greenland, shall be a participant in the KP certification scheme.

2. The Commission, which represents the Union, including Greenland, in the KP certification scheme, shall aim to ensure optimal implementation of the KP certification scheme, in particular through cooperation with participants. To this end, the Commission shall, in particular, exchange information with participants on international trade in rough diamonds and, where appropriate, cooperate in monitoring activities and in the settlement of any disputes that may arise.';

(9) Article 23 is replaced by the following:

'*Article 23*

The Committee referred to in Article 22 may examine any question concerning the application of this Regulation. Such questions may be raised either by the chairman or by a representative of a Member State or Greenland.'.

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 26 February 2014.

For the European Parliament	*For the Council*
The President	*The President*
M. SCHULZ	D. KOURKOULAS