



(COP 27) KIMBERLEY PROCESS CERTIFICATION SCHEME AND WORLD DIAMOND COUNCIL SYSTEM OF WARRANTIES

A *Definitions and applicability*

The **Kimberley Process** is a joint government, international diamond industry and civil society initiative to stem the flow of conflict diamonds.

Conflict diamonds are rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments, as described in relevant United Nations Security Council (UNSC) resolutions insofar as they remain in effect or in other similar UNSC resolutions which may be adopted in the future, and as understood as recognised in United Nations General Assembly (UNGA) Resolution 55/56, or in other similar UNGA resolutions which may be adopted in future.

The **World Diamond Council System of Warranties** is a program of self regulation that tracks diamonds, after the Kimberley Process certifies them, through the supply chain. The System of Warranties requires all diamond suppliers and diamond jewellery manufacturers to pass on a warranty statement each time diamond goods change hands, assuring the next buyer the diamonds originated within the Kimberley Process system.

Source:

- *The Kimberley Process Certification Scheme*
www.kimberleyprocess.com
- *Jewelers of America (US)*
www.jewelers.org

The **Kimberley Process Certification Scheme and World Diamond Council System of Warranties** section of the COP is applicable to Members which handle diamonds.

B *Issue background*

The issue of conflict diamonds began gaining public prominence in the late 1990s. Human rights non-governmental organisations (NGOs) drew attention to the illegal trade in rough diamonds. This trade was funding rebel movements in Angola and Sierra Leone and indirectly contributing to human rights atrocities. The diamond industry was brought into the media and consumer spotlight.

In response, the diamond and jewellery industry, through its designated representative organisation the World Diamond Council (WDC), began working with the United Nations, key governments and NGOs to seek a solution. These meetings became known as the Kimberley Process. The outcome was the Kimberley Process Certification Scheme (KPCS) which aims to prevent conflict diamonds from entering the supply chain. The system is implemented by governments and tracks the export and import of shipments of legitimate rough diamonds between participating countries. To support it, the WDC also created a voluntary program of industry self-regulation called the System of Warranties (SoW) which extends to the trade in cut and polished stones.

The diamond industry has made a strong commitment to the Kimberley Process, as complicity in the sale of conflict diamonds poses a significant risk to the reputation of individual companies and for the industry as a whole. For companies, failure to abide by KPCS or the WDC SoW exposes the member to expulsion from industry organisations and loss in trade.

The KPCS/SoW has in recent years been criticised for its lack of effectiveness due to the original definition of 'conflict diamond', which aims at rebel movements but does not include violence and human rights abuses perpetrated by state actors or private security firms. In this sense, while compliance with the KPCS is essential, from a broader perspective it may not necessarily provide assurance against diamonds being connected with other types of conflict-affected or high-risk situations affecting the diamond supply chain. It is also important to be aware that transactions in diamonds that comply with the KPCS could still be illegal if they involve individuals, entities or organisations who have been targeted by national or international sanctions.

C Key regulations

The Kimberley Process Certification Scheme

The Kimberley Process Certification Scheme (KPCS) came into effect in 2003. The KPCS requires participating nations to keep conflict diamonds out of legitimate channels of commerce. All imports and exports of rough diamonds must be via a government office. This office verifies the source, packs diamond consignments to be transported in tamper-resistant containers and issues the accompanying government-validated Kimberley Process Certificate. Each forgery-resistant certificate must be uniquely numbered and include data describing the shipment's contents and the country of export. Government signatories to the Kimberley Process are required to implement internal controls on the movement of diamonds and can only export/import diamonds to/from other countries that are part of the KPCS. Note that rough diamonds which are cut and polished within their country of origin do not fall under the KPCS as they are not exported as rough stones.

The World Diamond Council System of Warranties (SoW)

To provide industry support for the KPCS and additional assurance to end-consumers, the World Diamond Council (WDC) created a voluntary program of self-regulation, the System of Warranties (SoW). It requires that all consignments of diamonds, whether rough, polished, or set in jewellery, be accompanied by a written warranty on all invoices through the supply chain. This applies each time the diamonds change hands and extends down to retail jewellers (but not to end-consumers). The official WDC warranty statement reads:

"The diamonds herein invoiced have been purchased from legitimate sources not involved in funding conflict and in compliance with United Nations resolutions. The seller hereby guarantees that these diamonds are conflict free, based on personal knowledge and/or written guarantees provided by the supplier of these diamonds."

Note that the WDC SoW statement is not included on invoices to the final consumer. For retailers, all invoices to buy diamonds and for sales to businesses, as opposed to consumers, have to contain the statement.

Records must be kept of the warranty invoices received and issued, which must be auditable and reconciled on an annual basis. If asked for by a duly authorised government agency, these records must be able to prove compliance with the Kimberley Process for rough diamonds.

Industry Principles of Self-Regulation

In addition to KP and SoW adherence, all diamond and jewellery industry organisations and their members have adopted the following principles of self-regulation, obliging them to:

- trade only with companies that include warranty declarations on their invoices;
- not buy diamonds from suspect sources or unknown suppliers, or which originate in countries that have not implemented the Kimberley Process Certification Scheme;
- not buy diamonds from any sources that, after a legally binding due process system, have been found to have violated government regulations restricting the trade in conflict diamonds;
- not buy diamonds in or from any region that is subject to an advisory by a governmental authority indicating that conflict diamonds are coming from or available for sale in such region, unless diamonds have been exported from such region in compliance with the Kimberley Process Certification Scheme;
- not knowingly buy, sell or assist others to buy or sell conflict diamonds;
- ensure that all company personnel that buy or sell diamonds are well informed regarding trade resolutions and government regulations restricting the trade in conflict diamonds.

National and International Sanctions

Sanctions can encompass a wide variety of measures, including legislation and regulations that restrict or prohibit trade or other economic activity with a target state, or with non-state individuals, entities or organisations. These measures are often applied multilaterally, under UN Security Council Resolutions. Sanctions can prohibit both direct and indirect transactions with blocked entities or individuals. Current information about applicable sanctions can be found through lists maintained by relevant authorities.

D Suggested implementation approach

The Suggested implementation approach provides general guidance for implementing the mandatory requirements of the Code of Practices. The guidance is not normative and should be seen as a starting point for information and support.

COP 27.1: CONFLICT DIAMONDS:

Members shall not knowingly buy or sell Conflict Diamonds or assist others to do so.

Points to consider:

- A senior manager should have responsibility for managing the KPCS/SoW implementation, including the internal program, staff training and any external reporting, and for maintaining up to date information on any applicable sanctions (see also Legal Compliance).
- A risk assessment appropriate to the business' circumstances may be useful to identify vulnerability to involvement in the sale of conflict diamonds and to transactions with targeted individuals, entities or organisations.
- Systems should be in place, including procedures, testing and training, to prevent transactions of diamonds from suspect sources or unknown suppliers, or which originate in countries that have not implemented the KPCS, or which are likely to involve targeted individuals, entities or organisations.
- Due diligence should be undertaken if there are suspicions that transactions could indirectly involve targeted individuals, entities or organisations.

COP 27.2: KIMBERLEY PROCESS CERTIFICATION SCHEME:

Members, where involved with the international trade of rough Diamonds, shall apply the rough Diamond export and import verification system and controls as laid out by the Kimberley Process Certification Scheme and relevant national legislation.

Points to consider:

- Each shipment of rough diamonds being exported and crossing an international border must be accompanied by a uniquely numbered and government-validated Kimberley Process Certificate.
- Companies who wish to re-export rough diamonds already imported under a KP Certificate must be able to demonstrate in an auditable manner that the diamonds contained in the shipment are covered by the necessary warranties.
- Members should have access to and be familiar with the relevant national legislation implementing the Kimberley Process in all jurisdictions where they operate.

COP 27.3: SYSTEM OF WARRANTIES:

Members, where involved in buying and selling Diamonds, whether rough, polished or set in Jewellery, shall adopt the World Diamond Council System of Warranties and have systems to ensure that all associated invoices contain the following affirmative statement, or equivalent wording which provides the same warranty:

"The Diamonds herein invoiced have been purchased from legitimate sources not involved in the funding of conflict and in conformance with United Nations resolutions. The seller hereby guarantees that these Diamonds are conflict free, based on personal knowledge and/or written guarantees provided by the Supplier of these Diamonds."

D *Suggested implementation approach (cont)*

Points to consider:

- The SOW statement or equivalent must accompany each individual invoice.
- Procedures should be in place to ensure that shipments of diamonds are not accepted if they are not accompanied by the warranty statement, and set out next steps should a supplier fail to provide an adequate warranty.

COP 27.4: AUDITS:

Members shall keep records of all Kimberley Process certificates and System of Warranties invoices received and issued, and have them audited and reconciled on an annual basis either as part of an RJC Audit, or by an RJC Accredited Auditor during the Certification Period, or by a separate independent auditor, as suits the circumstances of the business. If asked for by a duly authorised government agency, these records must be able to prove compliance with the Kimberley Process.

Points to consider:

- Records of warranty invoices received and warrant invoices issued should be kept for five years.
- Every year, your auditor must be able to verify that you have maintained accurate and reconcilable records of warranties received and warranties given.
- Record-keeping related to the SoW should be integrated into normal internal control procedures.
- The auditor should be independent of the Member.
- Consider having the auditor review and test your KPCS/SoW procedures.

COP 27.5: SANCTIONS INVOLVING DIAMONDS:

Members shall maintain awareness of and comply with applicable international and national sanctions that prohibit transactions involving Diamonds with targeted individuals, entities or organisations.

Points to consider:

- See Points to consider under COP 27.1 above.

COP 27.6: INFORM EMPLOYEES:

Members shall inform all Employees that buy or sell Diamonds about government restrictions on the trade in Diamonds, Conflict Diamonds, the Kimberley Process Certification Scheme and the World Diamond Council System of Warranties.

Points to consider:

- The responsible manager should maintain a record of all Employees that buy or sell diamonds and register that they have received training.
- Training should be appropriate to employees' role and responsibilities and include training on procedures to be followed to ensure compliance with the KPCS and the SoW.
- Consider a requirement that all such employees sign a document stating that they have read and understand the World Diamond Council's Essential Guide to Implementing the Kimberley Process.

D *Suggested implementation approach (cont)*

CHECK:

- Do you have a system in place to prevent purchases of conflict diamonds and transactions with blocked entities?
- Have relevant employees received training on the KPCS/SoW?
- Are you aware of applicable national and international sanctions?
- Does an independent auditor annually verify you have maintained accurate and reconcilable records of warranties received and given?

E *Further information*

The following websites have further information on the Kimberley Process Certification Scheme and System of Warranties:

- De Beers – Conflict Diamonds
www.debeersgroup.com/sustainability/ethics/conflict-diamonds/
- Diamond Development Initiative (DDI)
www.ddiglobal.org
- European Commission European External Action Service - Sanctions
http://eeas.europa.eu/cfsp/sanctions/index_en.htm
- Global Witness – Conflict Diamonds
www.globalwitness.org/conflict-diamonds
- Jewelers of America (US)
www.jewelers.org
- Kimberley Process Certification Scheme:
www.kimberleyprocess.com
- Partnership Africa Canada – Conflict Diamonds
www.pacweb.org/en/conflict-diamonds
- US Department of the Treasury – Office of Foreign Assets Control
www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx
- UN Security Council Sanctions Lists
www.un.org/sc/committees/index.shtml
- World Diamond Council - Diamond Facts
www.diamondfacts.org