

Implementation of International Certification Scheme for Rough Diamonds in Hong Kong

This paper informs Members of the Administration's plan to implement an international certification scheme for rough diamonds (hereafter referred to as the "Certification Scheme") in Hong Kong.

The Certification Scheme

2. The Certification Scheme has been developed by the Kimberly Process (KP), an international negotiating forum that seeks to stop trade in "conflict diamonds"¹ from fuelling armed conflicts, activities of rebel movements and illicit proliferation of armament. Some 40 countries, including all of Hong Kong's major trading partners in rough diamonds such as Belgium, Mainland China, India, Israel, South Africa, the United Kingdom and the United States, have been participating in the KP and planning to implement the Certification Scheme.

3. According to the material published by the KP, each Participant of the Certification Scheme should, among other things:

- (a) ensure that no rough diamonds are imported from, or exported to, a non-Participant;
- (b) require that each shipment of rough diamonds exported to, and imported from, a Participant is accompanied by a duly validated "KP Certificate";
- (c) establish a system of internal controls designed to eliminate the presence of "conflict diamonds" from shipments of rough diamonds imported into, and exported from, its territory;
- (d) ensure that its process for issuing KP Certificates and the Certificates meet the specified minimum standards and requirements;
- (e) ensure that rough diamonds in transit or transshipped through its

¹ Conflict diamonds means rough diamonds used by rebel movements or their allies to finance conflicts 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 and recognised in United Nations General Assembly (UNGA) Resolution 55/56, or in other similar UNGA resolutions which may be adopted in future.

territory leaves its territory in an identical state as they entered its territory (i.e. unopened and not tampered with);

- (f) amend or enact, as required, legislation to implement and enforce the Certification Scheme and to maintain dissuasive and proportional penalties for transgressions; and
- (g) collect and maintain relevant official production, import and export data, and collate and exchange such data.

4. In addition, Participants are recommended to put in place a number of other measures, including registering all diamond buyers, sellers, exporters, agents and courier companies involved in carrying rough diamonds, and requiring them by law to keep, for a period of five years, daily buying, selling or exporting records.

5. Following a meeting held in Switzerland on 5 November, the KP has reaffirmed its commitment to the simultaneous launch of the Certification Scheme beginning on 1 January 2003, while also allowing deferred implementation from a later date by individual Participants. As we understand it, most of Hong Kong's trading partners in rough diamonds will or plan to start implementing the Certification Scheme from 1 January 2003.

Need for Hong Kong to implement the Certification Scheme

6. Hong Kong's trade in rough diamonds amounted to \$9 billion in 2001. If Hong Kong did not implement the Certification Scheme, it would no longer be able to import rough diamonds from, or export them to, nearly all of its current trading partners in rough diamonds which will implement the Scheme. Also, Hong Kong has been a supplier of rough diamonds to polishing factories in the Mainland; the polished diamonds are subsequently imported into Hong Kong and re-exported to third markets. Such flows of polished diamonds would also be affected if Hong Kong did not implement the Certification Scheme. Indeed, the local diamond industry, mainly represented by the Diamond Federation of Hong Kong (DFHK), has made a clear demand that the Government should seek to implement the Scheme in Hong Kong in order to safeguard Hong Kong's interest as a trading hub of diamonds in this region.

7. Hong Kong cannot join the Certification Scheme on its own having regard to the current definition of “Participant”, which is confined to a state or a regional economic integration organisation comprising sovereign states. As such, the relevant departments of the SARG will be designated as importing and exporting authorities of the People’s Republic of China for the purposes of implementing the Certification Scheme in Hong Kong. The control regimes of the Mainland and Hong Kong, however, will be completely separate, reflecting the fact that the two are separate customs territories.

Proposed control regime on trading and handling of rough diamonds

8. Having regard to the specific requirements of the Certification Scheme and recommendations of the KP, we have formulated a control regime on trading and handling of rough diamonds in consultation with the diamond industry. In gist, we plan to:

- (a) require all parties that carry on a business in importing, exporting, carrying, buying and selling of rough diamonds to be registered with the Trade and Industry Department (TID) and to comply with certain requirements. This would enable the Government to better monitor the movements of rough diamonds within Hong Kong; and
- (b) require traders to apply to TID for a KP Certificate for every shipment of rough diamonds to be imported from, and for every shipment to be exported to, a Participant, as well as to comply with certain conditions, including presenting the rough diamonds for inspection by the Customs & Excise Department where applicable. Imports of rough diamonds from, or exports of rough diamonds to, a non-Participant will not be allowed.

9. The DFHK and other industry associations have indicated general support for the proposed arrangement.

10. We will make amendments to the Import and Export (General) Regulations to provide legal backing to the proposed control regime to ensure its enforceability. This is in line with the approach adopted hitherto in relation to Hong Kong’s other trade control regimes (such as that for strategic commodities). We will also make amendments to the Import and Export (Fees) Regulations to enable TID to collect fees for registration and for licences issued

for importing and exporting rough diamonds.

Way Forward

11. We plan to table the Import and Export (General) (Amendment) (No. 2) Regulation 2002 and Import and Export (Fees) (Amendment) Regulation 2002 at the Legislative Council for negative vetting in early December 2002, and to bring them into operation immediately after the vetting by LegCo.

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