

Reprint  
as at 1 October 2018



**United Nations Sanctions (Kimberley Process)  
Regulations 2004**  
(SR 2004/463)

Silvia Cartwright, Governor-General

**Order in Council**

At Wellington this 20th day of December 2004

Present:

Her Excellency the Governor-General in Council

Pursuant to section 2 of the United Nations Act 1946, Her Excellency the Governor-General, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) for the purpose of enabling conflict diamonds trade-ban measures to be effectively applied,—

makes the following regulations.

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**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**These regulations are administered by the Ministry of Foreign Affairs and Trade.**

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## Regulations

### 1 Title

These regulations are the United Nations Sanctions (Kimberley Process) Regulations 2004.

### 2 Commencement

These regulations come into force on 14 January 2005.

### *Interpretation*

### 3 Conflict diamonds trade-ban measures, etc, defined

In these regulations, unless the context otherwise requires,—

**authorised person** means an officer or employee of the Ministry of Foreign Affairs and Trade authorised in writing by the Minister for the purposes of regulation 5(1) to (5)

**conflict diamonds trade-ban measures** means any of the following measures that the Security Council of the United Nations has, under Article 41 of the Charter of the United Nations, called upon the Government of New Zealand and all other member States of the United Nations to apply:

- (a) the measures (to prohibit the direct or indirect import of all rough diamonds from Côte d'Ivoire) set out in paragraph 6 of resolution 1643 (2005) of that Council, adopted pursuant to that Charter on 15 December 2005; and
- (b) *[Revoked]*

- (c) other similar measures (to prevent illicit trade in rough diamonds that fuels armed conflicts that affect international peace and security) also to give effect to decisions of that Council, being measures and decisions set out in 1 or more paragraphs of other resolutions of that Council adopted pursuant to that Charter either before or after the commencement of these regulations

**country** includes an international organisation or a State, territory, province, or other part of a country

**Customs or the Customs** has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018

**Customs officer** has the same meaning as in section 5(1) of the Customs and Excise Act 2018

**Interlaken Declaration** means the Interlaken Declaration of 5 November 2002 on the Kimberley Process Certification Scheme for Rough Diamonds

**international organisation** means any organisation of States or Governments of States, or any organ or agency of any organisation of that kind

**Kimberley Process** means the international certification arrangement for rough diamonds adopted under the Interlaken Declaration

**Kimberley Process Certificate** means a certificate that meets the minimum requirements for certificates set out in the Schedule (which are the requirements specified in Part A of Annex 1 of the document (which accompanied the Interlaken Declaration) called the Kimberley Process Certification Scheme)

**Minister** means the Minister of Foreign Affairs and Trade

**New Zealand** includes Tokelau

**original certificate** means,—

- (a) for rough diamonds that are, or are to be, imported, the certificate referred to in regulation 4(1)(b); and
- (b) for rough diamonds that are, or are to be, exported, the certificate referred to in regulation 5(2)

**participant** means a country that is a participant in the Kimberley Process

**rough diamonds** means diamonds that are—

- (a) unworked or simply sawn, cleaved or bruted; and
- (b) classified under heading 7102.10.00, 7102.21.00, or 7102.31.00 of the Standard Tariff (as defined in section 2(1) of the Tariff Act 1988).

Regulation 3 **conflict diamonds trade-ban measures** paragraph (a): substituted, on 20 November 2008, by regulation 4 of the United Nations Sanctions (Kimberley Process) Amendment Regulations 2008 (SR 2008/393).

Regulation 3 **conflict diamonds trade-ban measures** paragraph (b): revoked, on 20 November 2008, by regulation 4 of the United Nations Sanctions (Kimberley Process) Amendment Regulations 2008 (SR 2008/393).

Regulation 3 **Customs** or **the Customs**: inserted, on 1 October 2018, by section 443(4) of the Customs and Excise Act 2018 (2018 No 4).

Regulation 3 **Customs** or **the Customs** and **Customs officer**: revoked, on 1 October 2018, by section 443(4) of the Customs and Excise Act 2018 (2018 No 4).

Regulation 3 **Customs officer**: inserted, on 1 October 2018, by section 443(4) of the Customs and Excise Act 2018 (2018 No 4).

### *Importation and exportation of rough diamonds*

#### **4 Importation of rough diamonds**

- (1) The importation into New Zealand of rough diamonds from a country is prohibited unless—
  - (a) the country is a participant; and
  - (b) the country has issued a Kimberley Process Certificate for the rough diamonds; and
  - (c) the original certificate is produced to the Customs or a Customs officer at or before the time of importation; and
  - (d) the rough diamonds are imported in a tamper-resistant container.
- (2) The importer must—
  - (a) keep the original certificate for 3 years after the time of importation; and
  - (b) produce the original certificate to any of the following on a request for the purpose within that 3-year period:
    - (i) an officer or employee of the Ministry of Foreign Affairs and Trade; and
    - (ii) a person authorised in writing by the Minister for the purposes of this subclause.

#### **5 Exportation of rough diamonds**

- (1) The exportation from New Zealand of rough diamonds is prohibited unless—
  - (a) the exporter holds a permission under this regulation; and
  - (b) the original certificate is produced to the Customs or a Customs officer at or before the time of exportation; and
  - (c) the rough diamonds are exported in a tamper-resistant container.
- (2) The Minister, or an authorised person, may, on application, grant a permission for the exportation of rough diamonds to a country by issuing a Kimberley Process Certificate.
- (3) A permission may be granted only if the country is a participant, and ceases to be in force if the country ceases to be a participant.
- (4) A permission granted under this regulation is subject to the following conditions:

- (a) any condition notified in writing to the applicant at the time the permission is granted; and
  - (b) any condition specified on the Kimberley Process Certificate.
- (5) If the holder of a permission fails to comply with a condition of the permission the Minister, or an authorised person may, in writing, revoke the permission.
- (6) The holder of a permission must—
- (a) keep a copy of the original certificate for 3 years after the time of exportation; and
  - (b) produce a copy of the original certificate to any of the following on a request for the purpose within that 3-year period:
    - (i) an officer or employee of the Ministry of Foreign Affairs and Trade; and
    - (ii) a person authorised in writing by the Minister for the purposes of this subclause.

## 6 Other similar prohibitions not affected

Nothing in regulation 4 or regulation 5 affects—

- (a) regulation 12A (importation of diamonds from Côte d'Ivoire prohibited) of the United Nations Sanctions (Côte d'Ivoire) Regulations 2005; or
- (b) *[Revoked]*
- (c) any other regulation made under the United Nations Act 1946 and that prohibits the importation into New Zealand, or exportation from New Zealand, of diamonds.

Regulation 6(a): substituted, on 20 November 2008, by regulation 5 of the United Nations Sanctions (Kimberley Process) Amendment Regulations 2008 (SR 2008/393).

Regulation 6(b): revoked, on 20 November 2008, by regulation 5 of the United Nations Sanctions (Kimberley Process) Amendment Regulations 2008 (SR 2008/393).

## 7 Application of Customs and Excise Act 2018 to prohibited imports and prohibited exports

- (1) The provisions of the Customs and Excise Act 2018 with respect to prohibited imports (except sections 388 and 389) apply to diamonds whose importation is prohibited by regulation 4 as if the importation of the diamonds were prohibited under section 96 of the Customs and Excise Act 2018.
- (2) The provisions of the Customs and Excise Act 2018 with respect to prohibited exports (except sections 388 and 389) apply to diamonds whose exportation is prohibited by regulation 5 as if the exportation of the diamonds were prohibited under section 96 of the Customs and Excise Act 2018.

Regulation 7: replaced, on 1 October 2018, by section 443(4) of the Customs and Excise Act 2018 (2018 No 4).

**8 Detention of prohibited diamonds**

- (1) A reference in this regulation to prohibited diamonds is a reference to diamonds—
  - (a) whose importation is prohibited by regulation 4; or
  - (b) whose exportation is prohibited by regulation 5.
- (2) A Customs officer may detain any diamonds imported into New Zealand, or to be exported from New Zealand, that he or she suspects on reasonable grounds to be prohibited diamonds.

Compare: SR 2001/134 r 15(1), (2)

**9 Transitional provision**

Nothing in regulation 4 or regulation 5 applies to a diamond that is to be, or is being, imported into New Zealand, or exported from New Zealand, in accordance with a contract or deed entered into, or other legal obligation undertaken, before the commencement of these regulations.

*Acts in contravention or failures to comply*

**10 Offences**

Every person commits an offence against these regulations and is liable accordingly under section 3 of the United Nations Act 1946 who acts in contravention of, or fails to comply in any respect with, any provision of these regulations.

Compare: SR 2001/134 r 17

## Schedule

### Minimum requirements for certificates

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Each certificate must—

- (a) have the title “Kimberley Process Certificate”; and
- (b) state that “The rough diamonds in this shipment have been handled in accordance with the provisions of the Kimberley Process Certification Scheme for rough diamonds.”; and
- (c) also state the following:
  - (i) the authority by which it was issued; and
  - (ii) the date on which it was issued; and
  - (iii) the date on which it expires; and
  - (iv) the number of parcels in the shipment; and
  - (v) the country of origin of every parcel in the shipment (every parcel in the shipment being of unmixed, that is, from the same, origin); and
- (d) specify the following for the rough diamonds in the shipment:

- (i) their exporter; and
- (ii) their importer; and
- (iii) their carat weight or mass; and
- (iv) their value in US\$; and
- (v) their classification (or heading) under the Harmonised Commodity Description and Coding System; and
- (e) be issued in English or, if issued in another language, incorporate an English translation; and
- (f) have unique numbering with the alpha-2 country code, according to ISO 3166-1; and
- (g) be tamper-resistant and forgery-resistant, and be validated by the relevant exporting authority.

Diane Morcom,  
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 23 December 2004.

## Reprints notes

### **1** *General*

This is a reprint of the United Nations Sanctions (Kimberley Process) Regulations 2004 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

### **2** *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3** *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4** *Amendments incorporated in this reprint*

Customs and Excise Act 2018 (2018 No 4): section 443(4)

United Nations Sanctions (Kimberley Process) Amendment Regulations 2008 (SR 2008/393)