



**FEDERATIVE REPUBLIC OF BRAZIL
MINISTRY OF MINES AND ENERGY
SECRETARIAT OF GEOLOGY, MINING AND MINERAL
PROCESSING**

ANNUAL REPORT - 2006

KIMBERLEY PROCESS CERTIFICATION SCHEME - KPCS



Brasília, March, 2007

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I – INTRODUCTION

Brazil became Participant of the Kimberley Process Certification Scheme – KPCS , on October 30th, 2003, when its adhesion was announced during the Plenary of KPCS, held in Sun City, South Africa.

All activities with regard to the KPCS have been coordinating by the Ministry of Minas and Energy, with the participation of the Ministry of the Development, Industry and Foreign Trade - MDIC, Ministry of Finance - MF and the Ministry of the External Relations – MRE, and the Ministry of Justice.

Brazil has been doing a great institutional effort in order to carry out all activities forecasted with respect to the KPCS mainly those ones regarding to the legalization of the informal small-scale mining for alluvial rough diamonds. The Ministry of Mines and Energy, through the DNPM, had ordered a voluntarily suspension of its rough diamond exports imposed in February 2006, in conjunction with “Operação Carbono”, a high-profile, international and domestic criminal investigation of companies and individuals that had obtained KP certificates (KPCs) using in some cases a fraudulent techniques.

Although Brazil had faced many problems due to the "Operação Carbono", the SGM received during the period of 24-29 April 2006 a visit of the KP Review Mission, whose performance and recommendations will be very useful for the future activities of the Brazilian Kimberly Process's implementation.

II – OBJECTIVE

The main objective of this report is to fulfill the regulation in accordance with Section VI, paragraph 11 of the KPCS document, that is, each Participant should prepare, and make available to other Participants through the Chair of the Kimberley Process, information on an annual basis on the way in which they are implementing the requirements of the KPCS.

III – INSTITUTIONAL FRAMEWORK

The Kimberley Process - KP in Brazil has been implemented by the Ministry of Mines and Energy through the Secretariat of Geology, Mining and Mineral Processing (former Secretariat of Mining and Metallurgy) and The National Department of Mineral Production. Other government representatives involved are: the Ministry of Development, Industry and Foreign Trade, through the Department of Operations of Foreign Trade; The Ministry of Justice, through the Secretariat of Legislative Issues, and Federal Police; The Ministry of Finance, through the Secretariat of the Federal Revenue; and the Ministry of External Relations, through the Division of Market Access, which are respectively responsible for the following attributions, in accordance with the following table:

MINISTRIES	ORGANIZATIONS	ATTRIBUTIONS
MINES AND ENERGY (MME)	Secretariat of Geology, Mining and Mineral Processing (SGM)	<ul style="list-style-type: none"> • Coordination-General • Focal Point
	National Department of Mineral Production (DNPM)	<ul style="list-style-type: none"> • Issuing and Control of Certificates • Statistical Data (Production) • Statistical Data Bank
DEVELOPMENT INDUSTRY AND FOREIGN TRADE (MDIC)	Department of External Trade (DECEX)	<ul style="list-style-type: none"> • Exports and Imports Statistical Data • Consumptions Statistical Data
JUSTICE (MJ)	Secretariat of Legislative Issues (SAL) Federal Police (PF)	<ul style="list-style-type: none"> • Combat the Smuggling
FINANCE (MF)	Secretariat of Federal Revenue (SRF)	<ul style="list-style-type: none"> • Issuing of Certificate* • Customs Control
EXTERNAL RELATIONS (MRE)	Division of Market Access (DACCESS)	<ul style="list-style-type: none"> • Facilitator • Reception and Distribution of Documentation • Interchange among the Embassies and Ministries

(*) SRF can issue a new Certificate when a legal content of a remittance is opened due to some suspicion, not proven.

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IV – LEGAL FRAMEWORK

The legal framework for implementation of the KPCS consists of a specific KPCS law adopted in 2003 (**Law No. 10.743, of 9th October 2003**), a Regulation adopted in 2003 (**Joint Regulation No. 397 of 13th of October 2003**, adopted jointly by the DNPM within the Ministry of Mines and Energy – MME and the Secretariat of the Federal Revenue within the Ministry of Finance, and a **Regulation No. 295, of 1st of September 2006**, adopted by the Director-General of the DNPM, that replace the Regulation No. 209 of 5th of August 2005. The internal controls over diamonds mining required by the KPCS to provide assurances as to the origins of diamonds produced are based on the relevant provisions of Brazil's general mining legislation.

Law No. 10.743 replaces the provisional legal instrument No. 125 of 30 July 2003 that initially allowed Brazil to fulfill the minimum requirements for becoming a Participant. It sets out the conditions under which rough diamonds can be exported from or imported into Brazil; determines the institutions responsible for implementation of the KPCS and their respective tasks; and lays down the penalties applicable for infringements of the law.

Joint Regulation DNPM/SRF No. 397 and **DNPM Regulation No. 295** set out in detail the procedures that apply to export and import and notably lay down the conditions that have to be met for a parcel of rough diamonds to be granted a KPC for export. Both Regulations foresee that the issuance of a KPC is to be based on the information provided by the exporter or his legal representative. Joint Regulation 397 provides that “at the discretion of the DNPM, and in exceptional cases, a technical evaluation may be requested in order to confirm the authenticity of the information given by the exporter”.

Regulation Nº 295 establishes new requirements and a new electronic system for the issuance of KP certificates. Applications are available at <http://www.dnpm.gov.br>. A Report of Commercial Transactions has also been established to monitor diamond production and trade (copy in Annex).

It may be pointed out that before Brazil has become Participant of the KP, two important mineral Laws have already been published, that are:

Law No. 7,805, Art. 21 of the 18th of July 1989

Any illegal mining activity (any activity without DNPM's permit) is a crime whose responsible must be arrested.

Law No. 9,605, Art. 55 of 12th February 1998

Mineral prospecting and mining activities without environmental permits are crimes whose responsible must be arrested also.

V – IMPORT AND EXPORT REGIME

V. 1 – Exports

In accordance with Regulation Nº 295, the import and export of rough diamonds may only be undertaken following the prior approval and the issue of the KPC, by the DNPM.

The prior approval for the export or the import of rough diamonds will be requested by means of the following application process addressed to the Director-General of the DNPM:

- To fulfill the National Cadastre of Diamond Trade (CNCD) that is the national trade monitoring instrument, which is available on-line. All producers, dealer-traders (buyer/sellers), importers and exporters are required to register in the CNCD through an electronic application form. The form is submitted to the Director – General of the DNPM, printed and filed in DNPM Regional Offices (Districts). A CNCD must report his sales dating back to October 1, 2005.
- A Report of Commercial Transactions (RTC) has to be done in accordance with the Article 9 of the Regulation No. 295. Such Report is a monitoring and control instrument of production and trade of rough diamonds. All data presented in this report is subject to monitoring by DNPM.
- The KP Certificate may only be issued for diamonds originated from a production area that has been monitoring by DNPM (Article 13).
- Article 15 defines the kind of monitoring that should be made by DNPM before sealing a package of rough diamonds for export.
- The central feature of the control of exports is SISCOMEX, Brazil's on-line system to control and monitor exports of all kinds. The system provides a direct link between the Central Bank of Brazil, the Secretary of Revenue of the Ministry of Finance, and the DNPM. It is accessed directly by both exporters and authorities to register, monitor and verify products destined for export as they move from the exporter through approval processes until they leave the country. As part of the commitment to the Brazilian KPCS, it was created a separate category within SISCOMEX for rough diamonds. The category imposes an additional requirement to physically examine and verify shipments of rough diamonds as they leave the country.
- The export process begins with the issuance of a KPC. Modified in as part of the follow up to “Operação Carbono”. The exporter has 60 days from the issuance of the KPC to deliver the stones to the importer, after which the certificate expires. After receives the KPC, the exporter logs onto the SISCOMEX (from any internet connection) and registers the intention to export. The exporter provides detailed information including contact information, a description of the goods including weight, value of the parcel, point of origin, and destination. The exporter is responsible for the accuracy of the information entered into SISCOMEX.

The DNPM is notified of the intention to export through SISCOMEX, and can verify the information against data available through the KPC application.

- Almost all official exports of rough diamonds leave Brazil by air. The Federal Revenue and the Federal Police manage the customs office at the airport jointly. Customs monitors all exports through the SISCOMEX. When a shipment of rough diamonds appears on the system, the customs officer is prompted by the system to physically inspect the parcel, and Agents check for a valid KPC, ensuring that the information on the certificate is consistent with the information recorded in SISCOMEX, and have training to assess whether the description matches the parcel. If upon inspection inconsistencies are noted, the inspecting officer will contact the DNPM's KPC issuing office to verify the validity of the certificate. Federal Revenue is authorized to open the parcel for a thorough inspection, and can issue a replacement KPC should the parcel pass inspection. Should an agent wish to open a sealed parcel, both the DNPM and the exporter would be notified and are required to be present.

V. 2 – Imports

- The importers send a copy of the KPC issued by the exporting country to the DNPM in Brasilia, who verify the authenticity of signatures through an electronic record of issuing countries authorities. Separately, the importer provides a declaration to the DNPM, his identification number in the Registry of Contributors of the Secretary of Federal Revenue, his full address, the description of the imported merchandise, and its weight in carats, the value of the parcel in U.S dollars, and the origin of the diamonds. When the shipment is received at customs, the agent notifies the DNPM, which authorizes the import. The original certificate remains at the point of entry, in the possession of the importer. DNPM through the focal point confirm receipt of the shipment with exporting countries.

V.3 – Characteristics of the Brazilian KPC

The Brazilian certificate fulfills all the security features and requirements set out in Annex I of the KPCS document and as per the attached checklist. It was elaborated by the *Casa da Moeda do Brasil* (Brazilian Currency House), the government's company responsible for making coins and Brazilian bills, as well as of some countries of South America and Africa. The Brazilian KPC has the following security features, in accordance with the following characteristics:

1. Latent image – When the certificate is held horizontally at eye level to the light, letter “K” can be seen inside the brown ellipse guilloche.

2. Micro-text (Tactile mark): under a magnifying glass, tiny words (DNPM RECEITA FEDERAL DNPM ...) can be seen on the strip in the middle of the Certificate.
3. Ornamental border (Tactile mark): design is perceptible to the touch, and under a magnifying glass, tiny words (KIMBERLEY SRF KIMBERLEY SRF...) can be seen around the internal part of the ornamented border.
4. Number with 6 digits.
5. Watermark (Offset mark - DNPM): when the Certificate is held up to the light, the letters of the DNPM become visible.
6. Brazilian Blazon (Offset mark): appears inserted in the bottom of the Certificate.
7. Offset mark U.V. reactive (an image, and letters can be seen under U.V. light).
8. Tactile mark, and under a magnifying glass, tiny words (KIMBERLEY SRF KIMBERLEY SRF...) can be seen around the border of the brown ellipse guilloche.
9. Special back ground printing: thin sinuous lines color the entire Certificate

V.4 – Evidences that prove that the rough diamonds are not conflict diamond.

The DNPM will emit the Brazilian KPC only if the exporter proves that the rough diamond was extract from an area that has been legalized by the DNPM, in accordance with the paragraph 2nd, article 1st of the Law No. 10.743, of 9th October 2003. If the exporter will not be the owner of the mineral rights, he must present the purchase invoices, in order to prove that the rough diamonds were properly extract from mines or “garimpos” protected by the mineral legislation of the Country. Until now no evidence was found that diamonds from African conflict zones had reached Brazil.

V.5 – Issues of Kimberley Process Certificates

In 2006, 75 certificates were issued by the DNPM, and 12 were cancelled, in accordance with the following table:

Table 1 - EMISSION OF KP CERTIFICATES – 2006

First Quarter		Second Quarter		Third Quarter		Forth Quarter	
Nº	Country	Nº	Country	Nº	Country	Nº	Country
000175	Belgium					000185	Israel
000176	Belgium					000186	Israel
000177	Belgium					000187	Belgium
000178	Belgium					000188	Israel
000179	USA					000189	Israel
000180	USA					000190	Belgium
000181	Canceled					000191	Belgium
000182	Canceled					000192	Belgium
000183	Canceled					000193	Belgium
000184	Canceled					000194	Belgium
6 certificates 4 canceled						10 certificates	
GRAN TOTAL 16 certificates issued, and 4 canceled in 2006							

(Source: DNPM – MME, adapted by Nahass, S and Alves, Paulo Roberto)

Table 2 - Certificate Count Statistics Export - 2006

Export	Date - 2006	Count
European Community	1Q	4
United States of America	1Q	2
Israel	4Q	4
European Community	4Q	6

(Source: DNPM – MME, adapted by Nahass, S)

V.6– Rough Diamonds – Brazilian Exports and Imports 2006

We are presenting the data related to the export and the import of rough diamonds, years 2006, in the following tables:

Table 3 - Brazilian Rough Diamonds – Exports 2006

Brazil Trade With	Trade Type	Date 2006	Weight (ct)	Value (US\$)	HS Code
European Community	Export	1Q	2 514	42 975	7102.21
European Community	Export	1Q	3 640	60 133	7102.21
European Community	Export	1Q	3 527	47 238	7102.21
European Community	Export	1Q	3 006	45 530	7102.21
United States of America	Export	1Q	51	50 005	7102.31
United States of America	Export	1Q	3 453	690 560	7102.31
European Community	Export	4Q	9 500	149 250	7102.10
European Community	Export	4Q	11 351	178 000	7102.10
European Community	Export	4Q	11 400	179 000	7102.10
European Community	Export	4Q	11 500	180 500	7102.10
European Community	Export	4Q	9 446	223 415	7102.10
Israel	Export	4Q	2 753	1 156 809	7102.10
Israel	Export	4Q	283	137 527	7102.10
Israel	Export	4Q	1 435	470 223	7102.10
Israel	Export	4Q	4 486	1 621 354	7102.10
TOTAL			78 345	5 232 520	

Source MME/DNPM - 2006 (Adapted by Kimberley Process Rough Diamond Statistics.)

Table 4 - Brazilian Rough Diamonds – Imports 2006

Brazil Trade With	Trade Type	Date 2006	Weight (ct)	Value (US\$)	HS Code
European Community	Import	1Q	156	46 776	7102.31
United States of America	Import	1Q	280	3 505	7102.21
United States of America	Import	1Q	6 297	20 446	7102.21
United States of America	Import	1Q	900	17 800	7102.31
United States of America	Import	2Q	360	3 960	7102.21
United States of America	Import	2Q	850	17 450	7102.21
United States of America	Import	2Q	270	3 350	7102.21
United States of America	Import	2Q	750	14 300	7102.21
United States of America	Import	3Q	675	57 376	7102.10
United States of America	Import	3Q	800	17 000	7102.21
United States of America	Import	4Q	918	21 980	7102.21
TOTAL			12 255	223 943	

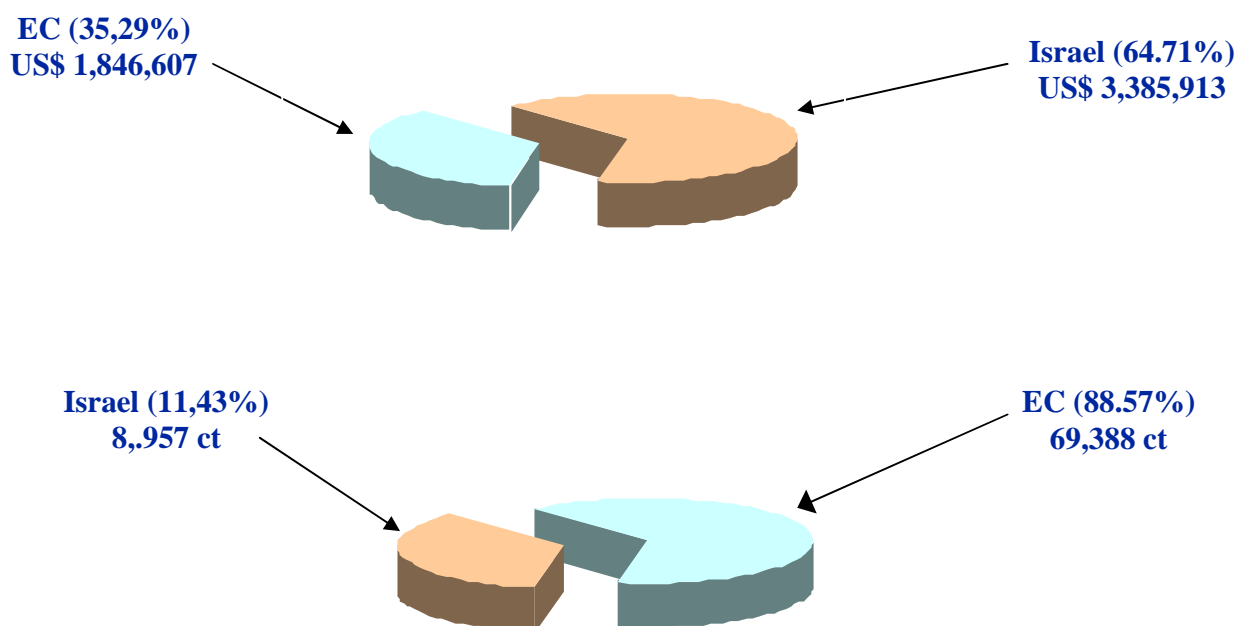
Source: MME/DNPM - 2006 (Adapted by Kimberley Process Rough Diamond Statistics.)

Table 5 - Import - 2006

Import	Date - 2006	Count
United States of America	1Q	3
European Community	1Q	1
United States of America	2Q	4
United States of America	3Q	2

Source: MME/DNPM - 2006 (Adapted by Kimberley Process Rough Diamond Statistics.)

In accordance with Table 3, the most expressive exports of rough diamonds, year 2006, were mainly directed to the European Community in terms of weigh. However, taking in account the value the most expressive exports were mainly directed to Israel, as it can be verified in the following illustrations:



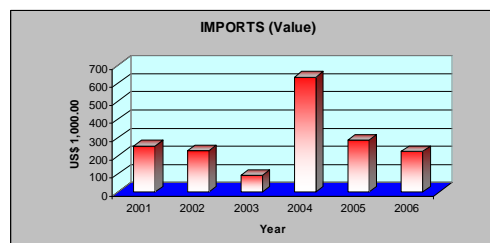
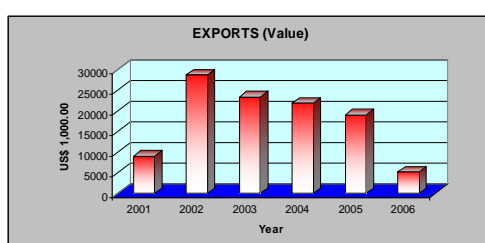
Brazil imported in 2006 a total of 12,555 ct corresponding to US\$ 223,943.00. The main supplier for rough diamonds was USA. Most of the rough diamonds imported into Brazil are industrial.

With respect to the previous years, exports decreased considerably, due to the “Operação Carbono” that has obliged Brazil to maintain a voluntarily suspension of its rough diamond exports from February to October 2006.

**Table 6 - Rough Diamonds – Exports and Imports (Value)
(2000 to 2006)**

TRADE	2000	2001	2002	2003	2004	2005	2006
EXPORT	8,030	9,077	28,772	23,420	21,810	19,053	5,233
IMPORT	285	255	229	94	633	287	224

(Source: DECEX – MF, DNPM – MME, adapted by Nahass, S.) - US\$ 1,000.00



**Table 7 - Rough Diamonds – Exports and Imports (Weight)
(2003 - 2006)**

TRADE	2003	2004	2005	2006
EXPORT	244,925	243,298	280,519	78,345
IMPORT	28,127	10,222	16,296	5,233

(Source: DECEX – MF, DNPM – MME, adapted by Nahass, S.) – Ct



In 2006 the estimated production of rough diamond was the following;

Table 8 – Brazilian Production

HALF 2006	WEIGHT (ct)	VALUE (US\$ 1.00)	US\$/ct
1st	19,429	1,123,730	57.83
2nd	74,585	5,155,290	69.12
TOTAL	94,014	6,279,020	66.79

VI – INCOMING SHIPMENTS

Brazil received in 2006 nine certificates from the USA, and one from European Community and all shipments were in accordance with the provisions of the KPCS, as it was stated in the item *V. 2 – Imports (page 10)*.

VII – SYSTEM OF INTERNAL CONTROLS

As a result of Operação Carboneo, the Brazilian Government through the DNPM and SGM was prepared a report entitled the “Relatório de Auditoria Especial da Certificação do Processo de Kimberly no Brasil”. The related work was in response to a joint investigation by the police and other authorities, as well as reports by the Non Government Organization (NGO) Partnership Africa Canada (PAC). With up to 45 percent production either fraudulent or suspect, serious reforms were implemented. The report verified the serious problems involving fraudulent mining claims and exports and money laundering which had affected a significant percentage of the diamond sector in Brazil. It recognized that there had been no proper check of KP Certificates before issuance and that there were no adequate management systems in place. The report indicates that the pertinent authorities and the Public Ministry and the Federal Police should implement the reforms. The recommendations were addressed many of the failings that led to the fraudulent activities and exports.

Ones has to remind that the KPCS is implemented by the MME through the SGM and operationally through the DNPM. SGM is responsible for overall coordination of the KPCS in Brazil and acts as a focal point. The DNPM is responsible for issuing and control of the KPCs, and has other areas of responsibilities, as was stated in the item III – INSTITUTIONAL FRAMEWORK

The main work of the DNPM is to oversee the issuing of exploration permits and mining concession rights for all minerals in Brazil. Its duties have also expanded to include the collection of fees and duties. Many of the elements of the work carried out as part of the KPCS (alluvial diamonds) are paralleled by the licensing and data collection on other minerals (mostly gold and tin). The DNPM oversees 80 mineral production chains, and 160,000 mining titles with a staff of 840 employees, including 240 professionals. Only a

small percentage of these are devoted to diamond mining. In the end of 2006, the DNPM hired 200 new employees, the first new hires in 30 years.

The core of the previous system of internal controls is the point in the process where the application for a KPC is cross referenced with the Cadastro Mineiro (which is a publicly accessible database) and contains all the exploration permit and mining concession rights.

The first step in obtaining a KPC was to obtain an Application Form which could be downloaded from the DNPM's website or obtained from any of the 25 regional DNPM offices. The exporter is responsible for the accuracy of the data. The DNPM processes approximately 30,000 requests per year for the entire Brazilian mineral sector. However the staff working on diamonds dealt with very small numbers of requests for KPC for exports purpose. The DNPM official checked the number of the mining license within the SIGMINE database and "Cadastro Mineiro" checked that there is a receipt or chain of sales receipts as appropriate, verified the carat weight but was not trained to verify value which is currently left to the exporter to declare. The lack of official valuation has been identified by the DNPM as an area for reform and it has hired staff to be trained. An export can be made directly by a mining company or by a buyer who may have purchased from a miner, or from other buyers. In the latter case a series of receipts is required to show each sale, with the receipt from the first point of sale including the number of the mining title. We are aware that many areas were identified for immediate improvement.

Once the mining title and receipts have been checked, an individually numbered physical file is created and stored at the regional office. The official then faxed a copy of the request form to the head office in Brasilia where the relevant official checks that the regional office did generate the KPC request and then proceeded to enter the data and issued the KPC. The centralized database recording the data from the export certificates was sited in the Brasilia office. The physical files for each export remained in the regional office where the request for export was originally lodged.

The DNPM has one element of the system, the "Cadastro Mineiro" (<https://sistemas.dnpm.br/sicom/sicom.asp>), representing a level of transparency and public access. According to the Report of the Review Visit to Brazil, *"if connected into a reporting and verification structure with full cross referencing of information and with risk analysis profiling, then the database could become a powerful tool in building up a system to eliminate the potential presence of conflict diamonds and to combat fraud and money laundering by organized crime"*.

The scale of the problems highlighted by PAC and investigated as part of "Operação Carbono" has clearly had a major impact on the Brazilian government and the DNPM in particular. We have understood that the system as it currently stands cannot provide the necessary controls as it is required by KPSC.

Another complex problem on alluvial production, is related to the large numbers of unlicensed diggers (*garimpeiros*). The Brazilian Government, through the Secretary of Geology, Mining and Mineral Processing, is encouraging the formation of cooperatives, and that numbers had increase from 11 to 147, including nine diamond cooperatives, over the past two years.

Brazil has launched an overhaul of its regulations governing rough diamonds through Regulation 295 (copy attached) that establishes new requirements and a new electronic system for the issuance of KP certificates. Applications are available at <http://www.dnpm.gov.br/cpk>. A Report of commercial Transactions has also been established to monitor diamond production and trade. The DNPM has assembled a team of experts to monitor KP activities, including control of rough diamonds production. The team will maintain a photographic cadastre of diamond production and records of mineralogical and gemological descriptions of diamonds collected from regional DNPM offices. The team will maintain a database on rough diamond production and trade and the mining cadastre.

VIII - INDUSTRY SELF-REGULATION

The “Operação Carbono” by Brazilian authorities has had a dramatic effect on all diamond traders and they have started to take a fresh look at Brazilian rules and regulations. The respect for these regulations has been heightened by the need to have a valid Kimberley Process Certificate before their rough diamonds leave the Country, but there is still more measures that could be done to bring the same sense of order that exists today in the formal mining sector to the equally important diamond dealing sector.

There were three diamond polishing companies in Brazil who employed almost 2,000 workers at the peak of their success: Cindam, Kessuram, and Selig.

IX– STATISTICS

The official data of statistic export and import are accomplished by the DNPM based on the emitted certificates. DNPM carries out this function through 25 regional DNPM offices. Each office is responsible for collecting and processing the KPCS applications in its jurisdiction, including the verification of application information prior to the issuance of a KPC. Each regional DNPM office is responsible for submitting the verified application, by fax, to the head DNPM office in Brasilia, where KPCs are issued.

In terms of production statistics, the production volume is calculated using a combination of export certificate data and imputation. The KPC export statistics are thought by DNPM to represent approximately 80% of production within Brazil. The remaining 20% is a rough estimate of production levels. The basis for this 20% estimation comes from discussions that the regional DNPM officers have had with operations.

On that sense, the production of 2006 was calculated as follows:

- Brazil total production volume in 2006 was 94.014 ct

- Brazil issued 17 KPCs with a total export volume of 78,345 ct, that represents approximately 80% of Brazil's 2006 production, and the remaining production volume of 15,669 ct is an estimate collected from non-formal Brazilian operations.

In 2006 Brazil was unable to establish accurate estimates of production levels within the country, given that data are based primarily on export information.

With the implementation of the Cadastro Mineiro-census with diamond CoopMinas, we wish to have data that are more precise on production.

X - MISCELLANEOUS

A - SUB-GROUP ON ALLUVIAL PRODUCTION

The 2004 Ottawa Plenary meeting of the Kimberley Process, decided to mandate the Working Group on Monitoring to establish an ad-hoc sub-group to address the challenges facing alluvial producers and promote the exchange of best practices. In that context the mandate from Plenary provides that membership of the sub-group should be drawn primarily from alluvial diamond-producing countries. It is therefore proposed that the sub-group should be open to all alluvial diamond-producing Participants in the KPCS.

As a first indication, the sub-group could thus comprise the following alluvial producers as members: Angola; Brazil; Central African Republic; Democratic Republic of Congo; Ivory Coast; Ghana; Guinea; Guyana; Namibia; Sierra Leone; South Africa; Tanzania; Togo; Venezuela.

Brazil was indicated to be the general coordinator for South America, which is composed by, besides Brazil, Guyana, and Venezuela.

In 2006, we tried to keep in touch with the representatives of Venezuela and Guyana in order to planning our joint work. We have established that for the first step we should made a diagnosis of the situation on rough diamond alluvial production in each country. Venezuela have sent us the paper "El Diamante en Venezuela" that gives a general idea about the geology, localization of deposits, and very few information about the alluvial deposits. Guyana has sent us only the 2004 Annual Report, which doesn't contain enough information on Alluvial Production, necessary to accomplish our report on South America situation.

During the Plenary of Gaborone, Brazil has presented a report on Alluvial Production, focusing mainly its concerns at the scope for the suspicion of illicit trade with Brazil's neighbors, and has indicated its willingness to coordinate with Guyanese and Venezuelan counterparts on ways of addressing the illicit trade. On that sense, Brazil agreed (and remains agreeing) to participate in a technical meeting with the referred countries as soon as possible, and indeed to host such a meeting in Boa Vista, Roraima, Brazil, close to the boundary of the other two countries (Guyana-Venezuela), with the participation of the Chair of the KP and the Chair of the Working Group on Monitoring.

The report presents also the Brazilian activities on alluvial production as well as the projects and programs carried out during the year, in order to bring the small miners into to the formal sector, as follows:

- Project to Consolidate and Empowering Small Mineral Producers (Garimpeiros) in Cooperatives
- Spreading the National Formalization Programs for Brazilian Small Scale Mining Production
- Approval of the Small Mining Producers (Garimpeiro) Statute.
- The establishment of Mineral Telecentres in many mineral cities.

At the same meeting, the Director-General of the DNPM has presented the improvements implemented in Brazil, after the "Operação Carbone" and has given some explanations on the actions and in the interpretation of the Regulation 295.

During the Plenary, Angola was selected to lead the new Working Group on Artisanal Alluvial Production, which will address issues of particular concern to alluvial/artisanal producers. As was previously stated, Brazil agreed to meet with Venezuela to address regional diamond trade concerns regarding to internal diamond controls. Guyana has also indicated strong interest in participating in the regional meeting.

B) MISSIONS ABROAD

Unfortunately, due to Brazilian government priorities, once more it was not possible to send mission to some countries in accordance with we have established in our agendas 2004, and 2005. Anyway, again we have scheduled to send the representatives of SGM, DNPM, DECEX and SRE to one or two countries aiming at knowing the way how those countries act in all stages with respect to import and export of rough diamonds, as well as to assimilate the acquired experience within the activities of the KPCS. If it will no be possible, we will try to get some Brazilian representatives into the foreseen review visits.

C) DISCREPANCIES

Most of discrepancies point out by Gabriele Fitzgerald during the Review Visit and in some meetings that we have accomplished have been resolved, remaining now only to resolve with Sue Saarnio the problems showed up with the parcels of rough diamond sent to the United States in 2004, 2005 and 2006, whose statistical data are still in discrepancies. We will conduct further reconciliation of data, and I believe that we should resolve that problem in the beginning of 2007.

XI – GRATEFULNESS


We would like to thank very much:

The leader ¹ and the team² of the Review Visit to Brazil for the high technical level and ethical principles, which allowed a frank exchange of knowledge under an atmosphere of friendship among them and the members of the Brazilian group that has followed up all activities. Due to that, all results forecasted by the involved parts were reached satisfactorily.

Ms. Allyson King and the European Community's translator, whom have made possible the English version of the Regulation No. 295.

Ms. Verônica Freire Ferreira Lima e Silva, advisor of the SGM that gentle has revised this report.

Brasília, March 2006



Samir Nahass
KPCS Focal Point for Brazil

¹ Mr. Stanley Specht (USA)

² Mr. Alfredo Gurmendi (USA), Ms Maria dos Santos (Angola), Ms Gabrielle Fitzgerald and Ms Jennifer Loten (Canada), Mr. Kim Eling (EC), Ms Charmian Gooch (Global Witness), Mr. Andrew Coxon (World Diamond Council).

ANNEX

REGULATION NUMBER 295 OF 1ST OF SEPTEMBER 2006

Official Gazette (DOU) of 5th of September 2006
(English Version: European Community – Adapted by Nahass, S.)

Governing the issuing of Kimberley Process Certificate (KPC) for export of and authorization for import of rough diamonds, establishing a National Rough Diamonds Trade Register and Transaction Report on the Production and Trade of Rough Diamonds and determines other provisions.

THE DIRECTOR-GENERAL OF THE NATIONAL DEPARTMENT OF MINERAL PRODUCTION – DNPM, by virtue of his office and in the light of the provisions of Law N^o 10.743, of the 9th of October 2003, published in the Official Gazette (DOU) on the 14th of October 2003, and in the Joint DNPM/SRF Regulation N^o 397 of 13th of October 2003, published in the Official Gazette (DOU) of the 14th of October 2003;

Whereas the export and the import of rough diamonds can be effected only with the prior authorizations of the National Department of Mineral Production (DNPM),

HEREBY DECIDES:

1st Article – Rough diamonds falling under codes 7102.10, 7102.21 and 7102.31 of the Harmonized Commodity Description and Coding System (HS) may be exported or imported solely with the prior authorization of the National department of Mineral Production (DNPM) and, in the case of export, subject to the issuing of the Kimberley Process certificate (KPC).

2nd Article – The National Diamond Trade Register (CNCD) is hereby established as an instrument to monitor rough diamond trade throughout Brazil. Registration shall be effected by means of an electronic form in accordance with Article 4th.

3rd Article – For the purposes of Kimberley Process certification by the DNPM, any natural or legal person intending to sell rough diamonds, irrespective of whether he is a producer, must be registered in the CNCD and provide proof that a consignment of diamonds for export has been purchased by a natural or legal person who holds mining rights and the relevant production license and is registered in the CNCD.

1st Paragraph - The proof referred to above shall take the form of sales invoices covering the transaction chain. Purchase invoices shall not be accepted.

2nd Paragraph - The above paragraph shall apply solely to a natural person who is a producer and holder of mining rights and is the first link in the transaction chain. The invoices issued must indicate, inter alia, the name of the issuer, CPF or CNPJ (natural or legal person register) number, address, DNPM process number, mining authorization title product description.

4th Article – All rough diamond producers or traders in Brazil, including importers and exporters, must be registered in the CNCD by means of an electronic form addressed to the Director-General of the DNPM. After transmission via the internet, this must be printed out in paper form in duplicate and registered with any DNPM district authority together with the following documents and proof:

I – In the case of natural persons authenticated copies of the official identity document with a photograph and official CPR or CNPJ document or ordinary copies submitted with the originals;

II – in the case of legal persons, the original of the company articles of association or an authenticated copy with proof of registration with the trade authority;

III – the original or authenticated copy of the power of attorney if the applicant is represented by a third person.

Sole paragraph – Registration in the CNCD shall be confirmed by registration of documents as indicated above. The user shall then be given access to the system on the basis of the particulars entered in the CNCD.

5th Article – Any person registered in the CNCD who intends to interrupt, temporarily or definitively, their diamond trading activities must inform the DNPM of this fact and submit a request to the Director-General to suspend or cancel their registration in the CNCD.

6th Article – When completing the CNCD form the applicant must enter details of all transactions from 1 October 2005 in the appropriate box.

7th Article – Information supplied by natural or legal persons to the DNPM concerning the value or volume of rough diamond transactions may be used only by the governmental institutions responsible for the KPC scheme in Brazil.

8th Article – The Trade Transactions Report (RTC) completed by rough diamond producers or traders in Brazil, including exporters and importers, which is available on the DNPM's website as an electronic form, shall be used as an instrument of monitoring and tracking diamond production and trade.

9th Article – The RTC must be sent to the DNPM by the available system within five working days of any sale or purchase of rough diamonds.

1st Paragraph - If no purchase or sale is made in a particular month, the natural or legal person registered in the CNCD must send the RTC by the tenth working day of the following month giving details of the stock declared in the RTC for the previous month.

2nd Paragraph – If the producer fails to complete or does not fully or correctly complete the RTC, he shall be liable for a fine, in accordance with point XIII of Article 54 and point II of Article 100 of the Mining Code regulations, amounting to BRL1.556, 57 (one thousand, five hundred fifty six “reais” and fifty seven cents), notwithstanding any other penalties which might be imposed, and shall be required to submit the RTC for the month in question.

3rd Paragraph – KPC applications for consignments of diamonds for which no transactions are recorded in a RTC or which do not comply with the provisions of this Order shall be refused and the consignments in question shall be seized to check their origin.

4th Paragraph – Failure to submit a RTC shall result in the immediate cancellation of the producer’s, agent’s, importer’s registration in the national diamond trade register (CNCD). Their particulars shall be kept in suspension in the DNPM database.

5^o Paragraph – A person’s registration in the CNCD may be reinstated in accordance with Article 4th where that person can prove to the DNPM that the grounds leading to the cancellation of his registration were incorrect.

10th Article – Information recorded in the RTC shall be checked by the DNPM at any time by virtue of its powers as a Federal agency.

11th Article – A request for prior authorization for the import of rough diamonds must be submitted to the Director-General of the DNPM in accordance with the 1st Article, 1st paragraph, subsection I, of the Joint Regulation DNPM/SRF N^o 397, of October 13, 2003.

Sole paragraph – The DNPM shall send a favorable opinion to SISCOMEX (Integrated External Trade System), if it is established that the request has been examined in accordance with the above provisions on the basis of information provided by the exporting authority of the country of origin.

12th Article – Electronic prior applications for Kimberley Process Certification for the export of rough diamonds can be submitted using the electronic forms accessible only to persons registered with the CNCD via the internet.

1st Paragraph – If an electronic prior application is used, the person concerned must also submit, after sending the electronic form via the internet, to the DNPM district authority for the diamond production area in question a printed standard form in duplicate for registration with the following documents and proof:

I – proof of payment of a fee of BRL 400 (R\$ 400,00) by bank transfer in the form of the original mechanically authenticated by a banking institution;

II – where the exporter is not the producer, the originals or authenticated photocopies of invoices relating to a transaction chain from natural or legal persons holding a DNPM production license; and

III – indicate in the invoices the name, CPR or CNPJ number, address, DNPM process number, production license number and product description

2nd Paragraph – The person concerned must send a printed version of the KPC application form, within thirty days of submitting it via the internet, to the DNPM district authority for the diamond production area for registration. After checking the documentation, the DNPM server shall use the printed form's alpha code number to generate a label and start the administrative process. If the printed application is not registered with the DNPM district authority within the time limit laid down in this paragraph, the prior application particulars in the temporary DNPM database shall be deleted and the alpha code number generated shall be invalidated.

3rd Paragraph – Registration of the KPC application with a DNPM district authority other than that responsible for the production area of the consignment in question or failure to produce any of the documents or proof referred to above shall result in the application being refused.

4th Paragraph – Consignments may not be made up of diamonds mined outside the production area of the district authority with which the application has been registered.

5th Paragraph – The form referred to at the beginning of this Article is available at <http://www.dnpm.gov.br/cpk>.

13th Article – A KPC shall be issued only for consignments originating in the production area which has been inspected by the DNPM in the six months prior to the application and which can demonstrate that mining is carried out in this area and that the diamond production notified is consistent with its nominal installed capacity.

14th Article – Rough diamonds defined in Article 1 must be identical or no more than 1 mm larger in size.

1st Paragraph – Rough diamonds which are smaller in size than that referred to above do not require an origin certificate for export and may not be included in consignments of other dimensions which require certification.

2nd Paragraph – An export consignment may not contain diamonds falling under different HS headings, that is to say all consignments must contain diamonds falling under the same commodity code.

3rd Paragraph – The DNPM may require consignments of diamonds falling under the same HS code in accordance with Article 1st to be classified by size to ensure consignments are homogeneous.

15th Article – DNPM will accomplish a inspection related to a previous sealing and another to a final sealing of the parcel, in order to make a conference of the information presented by the petitioner.

1st Paragraph – In the inspection of the provisional seals the DNPM official shall check that the information provided by the person applying for a KPC matches the consignment's characteristics before the KPC is issued by the competent authorities.

2nd Paragraph – During any of the inspections referred to above photographs shall be taken for the purposes of the administrative process.

3rd Paragraph – The DNPM shall inform the applicant or his legal representative of the date and time of inspections to check the information provided by the applicant relating to value, carat weight and mineralogical analysis to ensure provisional and final seals are properly applied to the consignment.

16th Article – When the administrative certification process has been completed and the relevant checks have been made, the KPC shall be issued after being signed by the competent authorities.

1st Paragraph – During inspection of the consignment's final seals the DNPM official shall place inside the KPC contained in an appropriate envelope after checking the consignment's provisional seals.

17th Article – KPC shall be valid for sixty days from the date of its issue.

Sole paragraph - The exporter, whether a natural or legal person, who does not use the KPC shall be required to return it to the DNPM within thirty days of the certificate's last date of validity. Otherwise future exports or imports shall not be authorized.

18th Article – If there is any doubt about the origin or mineralogical analysis, the DNPM may require a technical report to confirm the authenticity of the information provided.

19th Article – If it is discovered at any stage in the certification process that the applicant has used deception to obtain the KPC, the head of the district authority in question shall inform the Federal ministry and the Federal tax authorities so that they can take steps under the Art. 10th of the Law n^o 10.743/2003 to impose a fine equivalent to one hundred percent of the value of the goods.

Sole paragraph - The DNPM may detain any provisionally sealed consignment of diamonds whose origin is suspect for checking and confiscate this consignment if it is found to have been the subject of fraud or illicit practices.

20th Article – Resolution n^o 209 of the 5th of August 2005 published in the Official Gazette of 8th of August 2005 is hereby repealed.

21th Article – This Resolution shall enter into force on the date of its publication

MIGUEL ANTONIO CEDRAZ NERY

Director-General of the DNPM

Ministry of Mines and Energy