



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

ANNUAL REPORT - 2007

KIMBERLEY PROCESS CERTIFICATION SCHEME - KPCS



Brasília, March, 2008

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Cover Page Picture: Rough Diamonds - Chapada Brasil Mineração, Mato Grosso, Brazil (Miranda, J.G. – 2007)

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 with the cooperation of Federal Police.

Brazil remains using all 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.

In December 2007 it was created a Brazilian Forum of the Kimberley Process which members are representatives of government, private companies, civil society, cooperatives, small scale mining, with the main target of minimizing some problems with regard to the emission of the KPC in Brazil, as well as to discuss and present solutions on production, trade and smuggling of rough diamond.

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.

RESPONSIBLES

Ministry of Mines and Energy – Secretariat of Geology, Mining and Mineral Processing

Cláudio Scliar (KPCS Coordinator-General for Brazil)

Secretary of Geology, Mining and Mineral Processing

Esplanada dos Ministérios, Bloco “U” – 4^o andar

70065-900, Brasília – DF, BRASIL

Tel: +55 61 319.5175

Fax: +55 61 319.5949

E-mail: claudio.scliar@mme.gov.br

Carlos Nogueira da Costa Junior (KPCS Deputy Coordinator- General for Brazil)

Deputy Secretary of Geology, Mining and Mineral Processing

Esplanada dos Ministérios, Bloco “U” – 4º andar

70065-900, Brasília – DF, BRASIL

Tel: +55 61 319.5033

Fax: +55 61 319.5949

E-mail: carlos.junior@mme.gov.br

Samir Nahass (KPCS Focal Point for Brazil)

Advisor for International Affairs

Esplanada dos Ministérios, Bloco “U” – 4º andar

70065-900, Brasília – DF, BRASIL

Tel: +55 61 319.5635

Fax: +55 61 319.5382

E-mail: samir.nahass@mme.gov.br

Ministry of Mines and Energy – National Department of Mineral Production

Miguel Antonio Cedraz Nery

Director-General of the DNPM

SAN – Quadra 1, Bloco B

70040-200, Brasília – DF, BRASIL

Tel: +55 61 3312.6996

Fax: +55 61 3312.6918

E-mail: miguelnery@dnpm.gov.br

João César de Freitas Pinheiro

Deputy Director-General of the DNPM

SAN – Quadra 1, Bloco B

70040-200, Brasília – DF, BRASIL

Tel: +55 61 3312.6996

Fax: +55 61 3312.6918

E-mail: joaocesar@dnpm.gov.br

Walter Lins Arcoverde

Director of Mineral Monitoring of the DNPM

SAN – Quadra 1, Bloco B

70040-200, Brasília – DF, BRASIL

Tel: +55 61 3312.6992

Fax: +55 61 3312.6918

E-mail: walterarcverde@dnpm.gov.br

Paulo Roberto Alves

Head of the DNPM Diamond Group

SAN – Quadra 1, Bloco B

70040-200, Brasília – DF, BRASIL

Tel: +55 61 3312.6895

Fax: +55 61 3312.6918

E-mail: pauloalves@dnpm.gov.br

Ministry of the Development, Industry and Foreign Trade – Department of Operations of Foreign Trade

Eduardo Coelho Fernandes

Coordinator-General
Basic Products Coordination
Praça Pio X, nº 54 – 7º andar – Sala 702
Centro
20091-040, Rio de Janeiro – RJ, Brasil
Tel: +55 21 2126.1281
Fax: +55 21 2126.1183
E-mail: Eduardo.Fernandes@desenvolvimento.gov.br

Ieda Ferreira Fernandes

Adviser of the DECEX
Praça Pio X, nº 54 – 4º andar – Sala 402
Centro
20091-040, Rio de Janeiro – RJ, Brasil
Tel: +55 21 2126.1286
Fax: +55 21 2126.1183
E-mail: ieda.fernandes@desenvolvimento.gov.br

Ministry of Justice – Executive Secretariat

Sérgio Torres Santos

Adviser of the Minister
Esplanada dos Ministérios – Bloco T, 4º andar
70064 – 900, Brasília – DF, Brasil
Tel: +55 61 3429.3335
Fax: +55 61 3429.33354
E-mail: Sergio.santos@mj.gov.br

Maria da Piedade A. Couto

Secretariat of Legislative Issues
Coordinator of the Department of Legislative Process
Esplanada dos Ministérios, Bloco T, 4º andar
70064 – 900, Brasília – DF, Brasil
Tel: +55 61 3429 3750
Fax: +55 61 3429 3750
E-mail: maria.couto@mj.gov.br

Julio Coelho Ferreira de Souza

Department of Federal Police
Federal Criminal Officer
SAIS – Q 07 – L 23
70610.200, Brasília - DF
Tel: +55 61 3311.9808
E-mail: coelho.jcfs@dpf.gov.br

Ministry of the Finance – Secretariat of the Federal Revenue

Ronaldo Lázaro Medina

Secretariat of the Federal Revenue
Ministério da Fazenda
Esplanada dos Ministérios – Bloco P 4º andar
70048-900 Brasília – DF, Brasil
Tel: +55 61 3412.3470
Fax: +55 61 3412.1524
E-mail: ronaldo.medina@receita.fazenda.gov.br

Marcelo Neves Mascarenhas

Secretariat of the Federal Revenue
Ministério da Fazenda
Esplanada dos Ministérios – Bloco P 4º andar
70048-900 Brasília – DF, Brasil
Tel: +55 61 3412.3470
Fax: +55 61 3412.1524
E-mail: marcelo.mascarenhas@receita.fazenda.gov.br

Ministry of the External Relations – Division of the Market Access

Philip Fox Drummond Gough

Head of Division of Market Access
Esplanada dos Ministérios – Bloco P 2º andar
70048-900 Brasília – DF, Brasil
Tel: +55 61 3 411.6915
Fax: +55 61 3223.6394
E-mail: daccess@mre.gov.br

Giuliana S. M. Gosmann

Division of Market Access
Esplanada dos Ministérios – Bloco 2º andar
70048-900 Brasília – DF, Brasil
Tel: +55 61 3411.6915
Fax: +55 61 3223.6394
E-mail: jabraga@mre.gov.br

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).

Regulation No. 192 It has the same content of Regulation No. 295 with some modifications and inclusions (**Annex 1**).

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. 192, 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 Commercial Transactions Report (RTC) has to be done in accordance with the Section III of the Regulation No. 192. 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 16).
- Article 27 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. 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 2007, 54 certificates were issued by the DNPM, and it has had received 10 certificate, in accordance with the following tables:

Table 1 – CERTIFICATE COUNT STATISTICS EXPORT – 2007

1 st . Quarter		2 nd . Quarter		3 rd . Quarter		4 th . Quarter	
N ^o	Country	N ^o	Country	N ^o	Country	N ^o	Country
195	Israel	202	Expired	230	U.S.A.	241	Israel
196	Israel	203	Belgium	231	U.S.A.	242	Belgium
197	U.A.E.	204	Belgium	232	Israel	243	U.S.A.
198	U.A.E.	205	Israel	233	Switzerland	244	U.S.A.
199	Belgium	206	Belgium	234	Israel	245	Israel
200	Israel	207	Canada	235	U.S.A	246	U.A.E.
201	Belgium	208	Germany	236	Belgium	247	Expired
		209	Israel	237	Belgium	248	Belgium
		210	Israel	238	Belgium	249	Israel
		211	Cancelled	239	Belgium	250	Canada
		212	U.S.A.	240	U.S.A.	251	Belgium
		213	Cancelled			252	Belgium
		214	Israel			253	Israel
		215	South Africa			254	Belgium
		216	South Africa				
		217	South Africa				
		218	South Africa				
		219	South Africa				
		220	South Africa				
		221	South Africa				
		222	South Africa				
		223	South Africa				
		224	South Africa				
		225	Cancelled				
		226	South Africa				
		227	South Africa				
		228	Cancelled				
		229	Israel				
07 certificates 0 expired 0 cancelled		23 certificates 1 expired 04 cancelled		11 certificates 0 expired 0 cancelled		13 certificates 01 expired	
GRAN TOTAL 54 certificates issued, 02 expired and 04 cancelled in 2007							

(Source: DNPM – MME, adapted by Nahass, S and Alves, P. R.)

Export	Count
European Community	16
Israel	14
South Africa	12
United States	7
United Arab Emirate	3
Canada	2
TOTAL	54

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

Table 2 - Certificate Count Statistics Import - 2007

Import	Count
United States of America	9
European Community	1
TOTAL	10

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

V.6– Rough Diamonds – Brazilian Exports and Imports 2007

We are presenting the data related to the import and the export of rough diamonds, years 2007, in the following tables:

Table 3 - Brazilian Rough Diamonds – Import 2007

Trade With	Date	Weight (ct)	Value (US\$)	HS Code
United States of America	1Q	605	11 343	7102.21
United States of America	1Q	961	24 233	7102.21
United States of America	2Q	1 150	19 300	7102.21
United States of America	2Q	350	3 400	7102.21
United States of America	3Q	350	3 875	7102.21
United States of America	3Q	1 000	19 800	7102.21
United States of America	4Q	954	14 849	7102.21
United States of America	4Q	915	23 105	7102.21
United States of America	4Q	190	2 715	7102.21
European Community	4Q	132	79 008	7102.31
TOTAL		6 607	201 628	

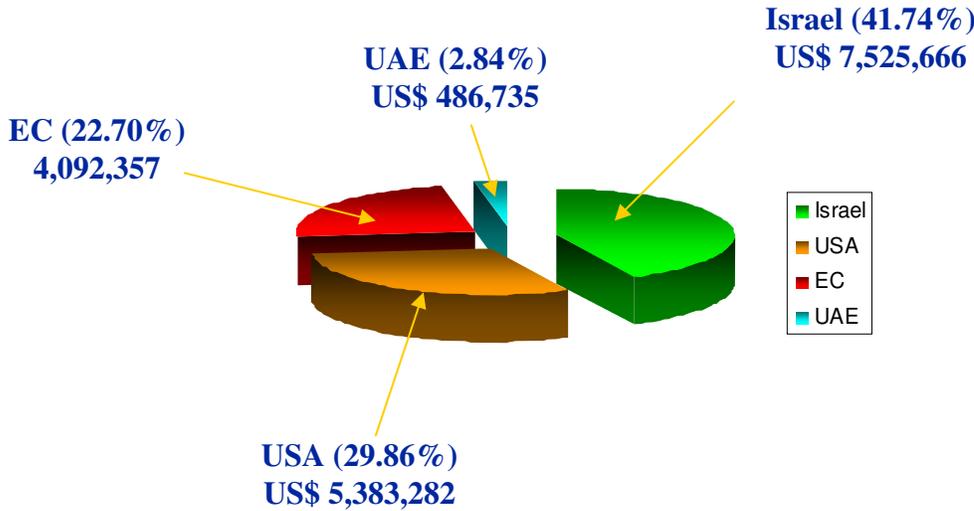
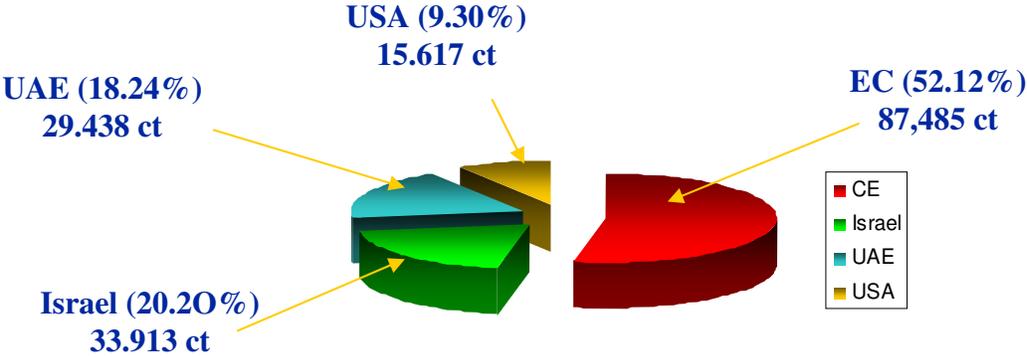
Source DNPM/MME - 2007 (Adapted by Kimberley Process Rough Diamond Statistics.)

Table 4 - Brazilian Rough Diamonds – Exports 2007

TRADE WITH	Weight (ct)	Value (US\$)	USA/ct
European Community	87 785	4 092 358	46.62
Israel	33 913	7 525 666	221.91
United Arab Emiratad	29 438	486 735	16.53
United States of America	15 617	5 383 282	344.71
South Africa	1 406	14 063	10.00
Canada	212	515 039	2 429.43
TOTAL	168 071.00	18 017 143.00	107.20

Source: DNPM/MME - 2007 (Adapted by Nahass, S.)

In accordance with Table 4, the most expressive exports of rough diamonds, year 2007, 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:



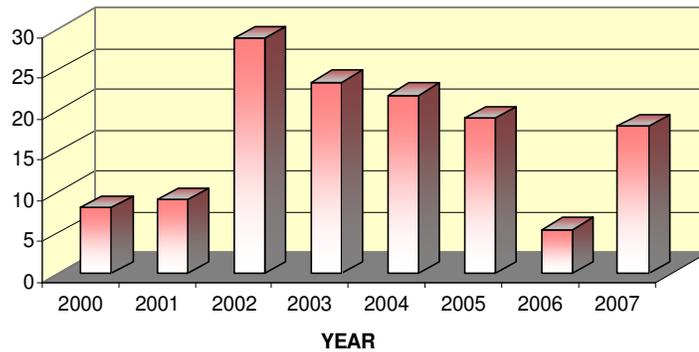
Brazil imported in 2007 a total of 6,607 ct corresponding to US\$ 201,628.00. The main supplier for rough diamonds was USA. Most of the rough diamonds imported into Brazil are industrial. In terms of carats, Brazil has imported almost 50% less than the previous year.

**Table 5 - Rough Diamonds – Exports and Imports
Value (US\$ 1,000.00) - 2000 to 2007**

TRADE	2000	2001	2002	2003	2004	2005	2006	2007
EXPORT	8,030	9,077	28,772	23,420	21,810	19,053	5,416	18,017
IMPORT	285	255	229	94	633	287	224	202

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

EXPORT - VALUE (US\$ 1,000.000.00)

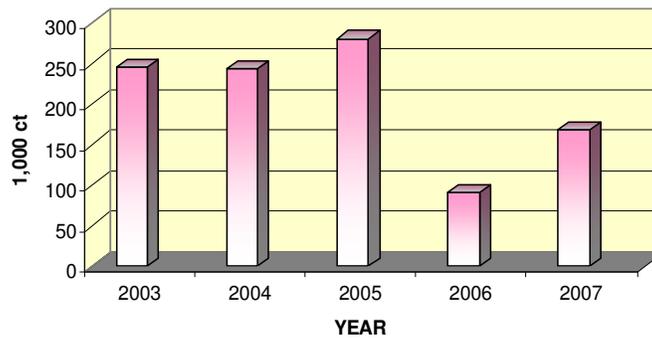


**Table 6 - Rough Diamonds – Exports and Imports (Weight)
(2003 - 2007)**

TRADE	2003	2004	2005	2006	2007
EXPORT	244,925	243,298	280,519	90,017	167,848
IMPORT	28,127	10,222	16,296	12,255	6,607

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

EXPORT - WEIGHT



In 2007 the estimated production of rough diamond was the following;

Table 7 – Brazilian Production

HALF 2007	WEIGHT (ct)	VALUE (US\$ 1.00)	US\$/ct
1st	99,400	7,835,100	78.82
2nd	157,564	20,117,772	127.68
TOTAL	256,964	27,952,872	108.78

VI – INCOMING SHIPMENTS

Brazil received in 2007 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

The Brazilian 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 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 yet, 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.

VIII - INDUSTRY SELF-REGULATION

All diamond traders have been taking 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 of the first semester of 2007 was 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. The second semester of 2007 was calculated taking in account the data of production declared through the "Report of Commercial Transactions". On that sense, the production of 2007, in accordance to the Table 8, was 256,964 ct in weight and US\$ 27,952,872.00 in value.

Although we have been doing our best to do it, up to now we are unable to establish accurate estimates of production levels within the country, in view that data are based primarily on export information. With the complete implementation of the *Cadastro Mineiro*-census and based on the Regulation 192, we hope to have data that should be more precise on production.

During the last Plenary of Brussels we have received a report about the Statistical Analysis of Brazil (01/01/2004 to 31/12/2006) prepared by Ajay K. Garg (with due assistance from K. Keabile), of Botswana member of the Working Group on Statistics - WGS. We are preparing a report about this issue, which will be delivered to the WGS until to the end of this semester of 2008.

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.

During the Plenary of 2006 the referred ad-hoc subgroup received the status of Working Group on Artisanal Alluvial Production - WGAAP, and Angola was selected to lead the new Working Group, which will address issues of particular concern to alluvial/artisanal producers, and Brazil remained as general coordinator for South America.

Fortunately, during the Plenary of Brussels, we have had a meeting with our neighbors Venezuela and Guyana in order to discuss all problems with regard to the rough diamond alluvial production. As result of this meeting, we have scheduled another meeting to be held in Brazil, in 2008, in a border area, in order to present and discuss solution to solve the faced problems on alluvial rough diamond production, mainly with regard to of illicit trade of rough diamond in the boundary area between these three countries, in view that the three countries are conscious that the problem of the illegality of the artisanal mining is very difficult to be resolved, and there is not doubt that there are still a lot of things to do together.

It has to stress that during the Plenary of Brussels some representatives of the Brazilian civil society was participated in all KP activities as members of the Brazilian Delegation.



Tripartite meeting Brazil, Guyana and Venezuela (Brussels – November, 2007)

The DNPM and the Federal Police has been trying to establish the mineralogical characterization of the diamonds of producing areas, in order to obtain data that will permit to facilitate, besides other tools, to identify the origin area of the rough diamond parcels. Preliminary researches on mineralogical characterization of rough diamonds have been carrying out in Paraná (Tibagi) and in Rondônia (Roosevelt aboriginal area).

In **Annex II** is presented the “Brazilian Alluvial Diamonds Inventory” that was sent to the Chairman of WGAAP.

The **Kimberly Process's Brazilian Forum - KPDF**, was created on December 18, 2007 with the main objective of developing the activities with respect to the Brazilian KP, as well as to discuss problems, solutions, and to improve and facilitate the process regarding the issuing of certificates origin, under the Brazilian laws. It is composed by stakeholders involved with the Brazilian rough diamonds as private companies, government institutions, civil society, cooperatives etc.



Coordenation – General of KPDF- (L-R): Francisco Porto – João César – Samir – Dario Rocha



KPDF Participants

The members of the KPBF Coordination-General are:
João César de Freitas Pinheiro – Coordinator-General
Dario Rocha – Deputy Coordinator-General
Samir Nahass – Secretary-General
Francisco Porto Filho – Deputy Secretary-General

B) MISSIONS ABROAD

In 2007, two specialists of the DNPM attended the technical training workshop for alluvial producers funded by South Africa and Canada.

During the last day in Belgium we had the opportunity to accomplish a visit to the “Antwerp World Diamond Centre - AWDC”, under the invitation of the Belgium Federal Police, and with a help of Allyson King and Ms. Anja Waem. AWDC is a center of control and issuing of Belgium KPC, responsible for issuing about 30.000 certificates/year involving an amount of US\$ 200 million/day. All parcels of rough diamonds that have been trading in European territory (import and export) must be physically presented in a certification centers like AWDC.

C) DISCREPANCIES

Very few discrepancies were faced during 2007 and all of them were solved, but the discrepancies pointed out in the report prepared by Ajay K. Garg (2004-2006) are still in analysis, and we hope to resolve them as soon as possible.

XI – GRATEFULNESS

We would like to thank very much:

Prof. Dr. Claudio Scliar, Secretary of SGM-MME, that has done all necessary effort in order to permit my participation at Plenary of Brussels.

Ms. Allyson King and the European Community's translator, whom have made possible the English version of the Regulation No. 192.

Robin Dunn and Bruna Santarossa for their kind attention during the Plenary of Brussels when we had the opportunity to participate in the workshop on KP Rough Diamond Statistics.

Brasília, March 2007



Samir Nahass
KPCS Focal Point for Brazil

ANNEX I

Regulation No. 192 of 25 May 2007

published in the Official Gazette (DOU) of 28 May 2007

governing the issuing of the Kimberley Process certificate (KPC) for the export of, and authorization for the import of rough diamonds, establishing a national rough diamond trade register and report of transactions in respect of the mining and marketing of rough diamonds and giving details of other provenances

THE DIRECTOR-GENERAL OF THE NATIONAL MINING DEPARTMENT

(DNPM), by virtue of his powers and in the light of the provisions of Law No 10.743 of 9 October 2003 and Joint DNPM/SRF Order No 397 of 13 October 2003,

WHEREAS the export and import of rough diamonds can be effected only with the prior authorization of the National Mining Department (DNPM),

HEREBY DECIDES:

Subject

Article 1

This Order establishes the national diamond trade register (CNCD) and the report of transactions in respect of the production and marketing of rough diamonds (RTC) and governs the issuing of the Kimberley Process Certificate (KPC) in the case of export and authorization of the import of rough diamonds by the National Mining Department (DNPM).

Section I

Prior authorization of imports of rough diamonds

Article 2

Rough diamonds falling under codes 7102.10, 7102.21 and 7102.31 of the Harmonized Commodity Description and Coding System (HS) may be imported solely with the prior authorization of the National Mining Department (DNPM).

Article 3

Prior authorization for the import of rough diamonds must be obtained by submitting an application to the Director-General of the DNPM pursuant to Joint Order of the DNPM and SRF (Federal tax authorities) No 397 of 13 October 2003.

Article 4

The DNPM shall send a favorable opinion to SISCOMEX (integrated external trade system) once it has been established that the application referred to in Article 3 complies with the relevant rules and the information provided by the exporting authority of the country of origin is correct.

Section II

National diamond trade register (CNCD)

Article 5

The national diamond trade register (CNCD) is hereby established to monitor trade in rough diamonds on Brazilian territory.

Compulsory registration

Article 6

Any person producing or trading in rough diamonds on Brazilian territory, including importers and exporters, must be registered in the CNCD.

Application and documents

Article 7

Application for registration in the CNCD must be made using the electronic form available on the DNPM's website and should be sent to the Director-General of the DNPM. After transmission via the internet, this must be printed out in paper form in triplicate (for the DNPM district authority, DNPM headquarters and applicant) and be 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 CPF/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.

(1) When completing the CNCD form the applicant must enter in the appropriate box details of transactions effected on the Brazilian market since 1 October 2005.

(2) Registration in the CNCD shall be confirmed by registration of the printed form referred to above. The user shall then be given access to the system on the basis of the particulars entered in the CNCD.

(3) If incorrect information has been provided in order to register in the CNCD and registration has been granted this shall be cancelled and the Federal Prosecutor's Office shall be informed so it can take the appropriate measures under criminal law.

Updating information

Article 8

Legal persons registered in the CNCD must inform the DNPM of any amendments to their articles of association subsequent to their registration by submitting one copy with the original or an authenticated copy of the amendment.

Article 9

Any person registered in the CNCD who intends to interrupt, temporarily or definitively, 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.

Section III

Commercial transactions report (RTC)

Article 10

The commercial transactions report (RTC) is hereby established as a means of monitoring and controlling diamond production and trade.

Declaration obligations

Article 11

All persons producing or trading in rough diamonds on Brazilian territory shall be required to submit the RTC to the DNPM.

Form and time limit

Article 12

The RTC must be submitted on the relevant form, which is available on the DNPM's website, and sent via the internet within the following time limits:

- I. within 10 working days following any internal sale of rough diamonds;
- II. by the producer, giving details of production in the previous month, by the tenth working day of the following month unless there was no production in the month covered by the declaration.

(1) Sales on the external market shall not be registered unless a KPC has been issued.

(2) The declarant must be registered in the CNCD before a RTC can be sent.

Penalties

Article 13

If the declarant fails to complete or does not fully or correctly complete the RTC, a fine of BRL 1 556.57 shall be imposed, in accordance with point XIII of Article 54 and point II of

Article 100 of the Mining Code regulations, notwithstanding any other penalties which might be imposed, and the requirement to submit the RTC for the month in question.

(1) Failure to submit a RTC shall result in the immediate cancellation of the declarant's registration in the national diamond trade register (CNCD). The particulars shall be kept in suspension in the DNPM database until the declarant can rectify the situation with the DNPM.

(2) Exceptionally, if a RTC cannot be sent electronically because of a breakdown in the system, the declarant may register the RTC with the relevant district authority or at the DNPM's headquarters in Brasilia or send the RTC by registered letter within the time limit provided for in Article 12 in order to prevent the KPC from being refused or registration being suspended in accordance with the above paragraph.

Article 14

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

Section IV

Kimberley Process certification

Article 15

Rough diamonds falling under codes 7102.10, 7102.21 and 7102.31 of the Harmonized Commodity Description and Coding System (HS) may be exported solely with the prior authorization of the National Department of Mineral Production (DNPM), which shall issue a Kimberley Process Certificate (KPC) in accordance with this Order.

Subject

Article 16

A KPC may be issued for the following:

- I. shipments of rough diamonds originating in production areas holding mining rights and a mining license, which were inspected by the DNPM in the six months prior to the application, and which can demonstrate in each area that mining is being carried out and that the diamond production notified is consistent with its nominal installed capacity;
- II. shipments of rough diamonds auctioned with the authorization of the judicial authorities or bought or sold by public auction;
- III. shipments of rough diamonds originating in production areas holding mining rights which are intended for analysis, testing or scientific uses or exhibition at fairs, congresses or similar events and have no commercial use.

Sole paragraph

Shipments intended for university laboratories or research centers or as technical resources for companies which hold or have held mining rights shall be considered to be intended for the scientific uses referred to in paragraph III.

Electronic application for prior authorization

Article 17

For the purposes of Kimberley Process Certification the person concerned must apply for prior authorization using the form available at the DNPM's website in the section giving exclusive access to persons registered in the CNCD, at <http://www/dnpm.gov.br/cpk>, and send it via the internet.

Time limit for and place of registration of applications

Article 18

Within 30 days from the date of transmission of the application for prior authorization via the internet the person concerned must register the printed form generated by the system in three copies (for the DNPM district authority, DNPM headquarters and the applicant):

I. with the DNPM district authority in the diamond production area in the case referred to in paragraph I of Article 16;

II. with the district authority of the area where the auction takes place or the DNPM headquarters in Brasilia in the case of diamonds purchased by auction or public sale;

III. with the DNPM district authority in the diamond production area or with the DNPM headquarters in Brasilia in the case referred to in paragraph III of Article 16.

Documents

Article 19

The record and standard form for a KPC application must be accompanied by the following documents and proof:

I. in the case of KPC applications for the cases referred to in paragraphs I and III of Article 16:

(a) proof of payment of a fee of BRL 400 in the form of the original bank statement mechanically authenticated by the banking institution;

(b) where the exporter is not the producer, in order to prove that the shipment of diamonds to be exported was purchased by a natural or legal person holding mining rights and a mining licence and is registered in the CNCD, the originals or authenticated photocopies of invoices relating to a chain of transactions by natural or legal persons, except in the case of purchases of rough diamonds to form stocks effected at the time Order No 209 of 5 August 2005 was in force;

(c) 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 where a KPC application is registered with the district authority rather than registered in the CNCD;

(d) a power of attorney or authenticated copy thereof where appropriate.

II. In the case of a KPC application for shipments of diamonds purchased by auction or public sale:

(a) proof of payment of a fee of BRL 400 in the form of the original bank statement mechanically authenticated by the banking institution;

(b) auction slip, bidding guidance or proof of collection;

(c) where the exporter is not the bidder, the originals or authenticated photocopies of invoices relating to a chain of transactions by natural or legal persons;

(d) a power of attorney or authenticated copy thereof where appropriate.

(1) The DNPM has discretion to require technical documents, files and other documents necessary for examination of the application to be submitted.

(2) The documents referred to in subparagraph (b) of paragraph I and subparagraph (c) of paragraph II of this Article must contain, in addition to other invoice details, the name of the issuer, the CPF or CNJ number, address, description of the product and, for the purposes of issuing a KPC under paragraph I, the name of the DNPM process and mining right.

(3) In the registration process, 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.

Article 20

The application for prior authorization is the essential requirement for Kimberley Process Certification and does not dispense the persons concerned from registering the printed form in accordance with the previous Article.

Sole paragraph

If the printed application is not registered with the DNPM within the time limit laid down in Article 18, the information contained in the prior authorization application in the DNPM's temporary database shall be lost and the alpha code generated shall be invalid.

Refusal

Article 21

The KPC application shall be refused:

- I. if it is not submitted on the standard form;
- II. if the standard form is not completed in full;
- III. if the application is registered with a district authority other than that indicated in this Order;
- IV. if any document or proof referred to in Article 19 is missing;
- V. if the applicant is not registered in the CNCD or his registration therein is suspended;
- VI. if all the requirements are not fulfilled;
- VIII. shipments of diamonds for which no sales transactions are recorded in a RTC or the RTC submitted does not comply with the provisions of this Order and the shipments in question have been seized to check their origin.

Issue

Article 22

A KPC shall not be issued unless the applicant is registered in the CNCD.

Article 23

Before a KPC is issued the DNPM must carry out an inspection of the provisional seals in accordance with Article 27.

Article 24

Once the final stage in the administrative certification process has been completed and all examinations have been carried out, the KPC shall be issued once the DNPM has carried out an inspection of the final seals in accordance with Article 28.

Article 25

The KPC shall be valid for 60 days from the date of its issue.

Sole paragraph

Any exporter, who is a natural or legal person, who does not use the KPC must return it to the DNPM within 30 days following the date on which certification loses its validity or be refused prior authorization to carry out future imports or exports.

Article 26

A KPC issued pursuant to paragraph III of Article 16 must indicate the destination of the export shipment and the length of time it is to remain outside Brazil in the case of a shipment which has to be returned to Brazil.

Provisional and final seal inspections

Article 27

The DNPM shall carry out an inspection to check the information provided in the KPC application relating to the value, carat weight, mineralogical identification and other characteristics of the shipment to ensure provisional and final seals are properly applied.

(1) Shipments of rough diamonds covered by the KPC application must comply with the following conditions:

- I. they must be identified by Harmonized Commodity Description and Coding System (HS) codes pursuant to Article 15;
- II each export shipment may contain only diamonds identified under the same HS code;
- III. the DNPM may require that, within the same HS code, shipments be classified by size in order to ensure shipments are homogeneous;
- IV. shipments may not be made up of diamonds mined outside the production area of the district authority with which the application has been registered.

(2) If there is any doubt about the value, origin or mineralogical identification of the diamonds, the DNPM may require a technical report confirming the authenticity of this information from:

- I. the gemological laboratories of public institutions;
- II. the gemological laboratories of private institutions accredited with the Brazilian Institute for Gemstones and Precious Metals;
- III. the Brazilian Gemological Society, the Brazilian Gemology and Mineralogy Association, the Brazilian Association of Gemologists and Gem and Jewel Assessors, Gemologist Associations in Brazil, the National Association for Wholesale Trade in Precious Stones and the Association of Legal Experts;
- IV. a gemologist (independent expert or expert employed by a private company) accredited with the Brazilian tax authorities.

Article 28

When the KPC has been issued the DNPM shall carry out an inspection of the final seals applied to the shipment during which a DNPM official shall place in the shipment the KPC signed by the competent authorities and contained in appropriate packaging after checking the provisionally sealed shipment.

Article 29

During the provisional and final seal inspections the DNPM must:

- I. inform the applicant or his legal representative of the date and hour of the inspection;
- II. take a photographic record of the samples to be examined in the administrative procedure;
- III. put all the diamonds for which the KPC has been issued in one single packaging.

Section V

Final provisions

Information secrecy

Article 30

Information provided to the DNPM by natural or legal persons on the value and volume of the rough diamonds traded is intended for the sole use of the government institutions responsible for the Kimberly Process Certification System in Brazil.

Sole paragraph

The information referred to above may be used by the DNPM for the purposes of publishing aggregated statistics.

Fraud in the KPC process

Article 31

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 Prosecutor's Office and the Federal tax authorities so that they can take the measures required by Article 10 of Law No 10.743/2003.

Public auction

Article 32

Natural or legal persons involved in seizures of diamond shipments may not take part in public auctions.

Seizure and confiscation of diamonds

Article 33

The DNPM may seize for the purposes of investigation or confiscate any shipment of diamonds of suspected origin or where there is evidence of fraud or fraudulent activity.

Repeal and entry into force

Article 34

Order No 295 of 1 September 2006 is hereby repealed.

Article 35

This Order shall enter into force on the date of its publication.

Miguel Antonio Cedraz Nery
Director-General of DNPM