

INTRODUCTORY NOTE

Portugal became part of the secure chain that applies the Kimberley Process Certification System (SCPK) with the publication of the Implementing Regulation (EU) 2015/1374, of the Commission, of 7 August 2015, amending Regulation (EC) No. 2368/2002, of the Council, of 20 December, on the application of the SCPK for international trade in rough diamonds, which recognizes the Tax and Customs Authority (AT) as the competent authority for control on imports and exports of diamonds on rough diamonds.

LICENSING OF ECONOMIC OPERATORS

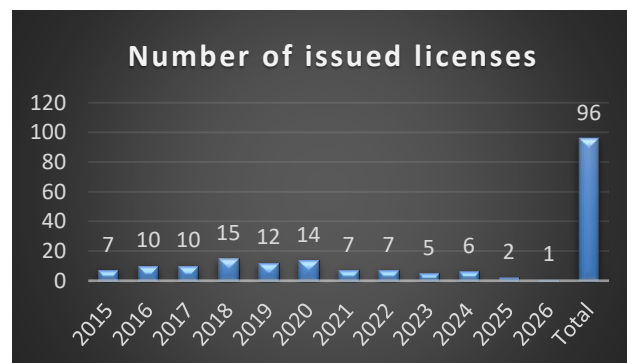
In Portugal, the import and export activities of rough diamonds can only be carried out by duly licensed economic operators who meet the conditions of suitability, in accordance with the provisions of Law No. 5/2015, of 15 January, which ensures the execution of the Regulation (EC) No. 2368/2002, of the Council.

The application for the licensing of import and export activities is submitted, by electronic means through the electronic one-stop shop, called Entrepreneur's Desk (BdE), through a specific form containing the following elements:

- identification of the applicant with mention of the name or business name and nationality or residence status;
- address of headquarters or tax domicile, depending on whether it is a legal person or an individual entrepreneur;
- Code of permanent certificate or declaration of commencement of activity, depending on whether it is a legal person or an individual entrepreneur;
- Certificate of criminal record of the applicant or in the case of a legal person, the respective administrators, directors or managers;
- written declaration, under honor, attesting that in relation to the applicant or, in the case of a legal person, the respective administrators or managers, there are no circumstances that determine the suitability of the economic operator.

The license is issued by Directorate-General of Economy (DGE), after the correct instruction of the license application has been verified, within five working days of receiving it.

As can be seen in the following graph, 96 companies or individual entrepreneurs engaged in the import and export of rough diamonds have been licensed since the entry into force of the diploma.



It should be noted that the diploma came into effect on 7 August of 2015, so the licenses issued that year only refer to applications received after that day.

REGISTRATION OF ECONOMIC OPERATORS

DGE organizes and updates the registration of economic operators established in national territory, based on the licenses granted.

COMMUNICATIONS TO DGAE

Economic operators holding an activity license must inform DGE, within 30 days after the respective verification, of the following situations:

- change of administrators, directors or managers (accompanied by the respective criminal record certificates);
- changes to the business name, the legal nature and the headquarters or tax domicile;
- activity cessation.

IMPORT AND EXPORT CONDITIONS

The operations to import rough diamonds into the territory of the Community or Greenland must satisfy the following conditions:

- rough diamonds must be accompanied by a certificate validated by the competent authority of an SCPK participant;
- rough diamonds must be packed in tamper-proof containers and the seals affixed to the export by that participant are not broken;
- the certificate must clearly identify which shipment it refers to;
- importation depends on the intervention of an expert-classifier-evaluator, who carries out the expert examination at the time of customs verification of each shipment and prepares the respective report.

The Export operations for rough diamonds from the territory of the Community or Greenland must satisfy the following conditions:

- rough diamonds must be accompanied by a corresponding Community certificate issued and validated by a Community authority;
- rough diamonds must be packed in tamper-proof containers sealed accordingly;
- export depends on the intervention of an expert-classifier-evaluator, who carries out the expert examination at the time of customs verification of each shipment and prepares the respective report.

For the purposes of the above, economic operators must previously notify the competent authority of the operations they intend to carry out, under the terms and conditions defined in the dispatch of the Director-General of AT.

Individuals who carry rough diamonds from or destined for third countries, or who receive or send them as postal parcels, must present them to customs together with the respective certificate, at the time of entering or leaving national territory, to proceed to its legalization, through the fulfillment of all the necessary legal and regulatory formalities, both in import and export.

Import and export formalities must be completed at customs with specific competence to control these movements, duly identified in the Finance Portal, to which national jurisdiction is assigned for this purpose.

OBLIGATIONS OF OPERATORS OR INDIVIDUALS CARRYING ROUGH DIAMOND FROM THIRD COUNTRIES

- They must maintain, for a period of five years, permanently updated records of all purchase, sale, import or export operations containing the names of customers and suppliers, the numbers of the respective customs declarations and the numbers of the corresponding certificates.
- Individuals who carry rough diamonds with or from third countries, or who receive or send them as a postal order, must keep a copy of the respective certificate.
- Responsibility for the payment of the costs inherent to the intervention of the expert-classifier-evaluator, due to the expertise of the certificate presented.

EXPERT-CLASSIFIER-EVALUATOR

The activity of expert-classifier-evaluator of rough diamonds in national territory can only be exercised by whoever holds a valid professional title, meets the conditions of good repute, and consists in exercising the following functions:

- physical inspection of imported and exported diamonds;
- comparison of the data of the inspected diamonds with the data indicated in the accompanying certificate;
- opening of packages and lots of rough diamonds, whenever necessary, for inspection purposes;
- verification that all documents referring to rough diamonds are sufficiently detailed and correspond to the imported or exported diamonds that are inspected.

The INCM is the competent entity for the qualification and issuance procedure of the respective title, as well as for the printing of the import and export certificates of rough diamonds, whose issue, validation and verification are the responsibility of the Tax and Customs Authority.

The expert-classifier-evaluator must have civil liability insurance, financial guarantee or equivalent

instrument to cover possible damages resulting from the exercise of the activity.

The list of expert-classifier-evaluators qualified to exercise the respective activity is published on the Finance Portal.

Economic operators can choose any of the expert-classifiers-evaluators that are part of the list, being responsible for the payment of the respective fees.

FEES AND REGULATIONS

Ordinance No. 109/2015, of April 21, regulates and sets fees for the application of the Kimberley Process Certification System to the international trade in rough diamonds.

OTHER OBLIGATIONS

Concerning general and specific duties to prevent and combat money laundering and terrorist financing, the Regulation No. 1191/2022, of 26 December, establishes, among others, duties of control and training, which require the possession of, respectively, a prevention manual suitable for the activity and a certificate proving attendance of a certified training action.