

107TH CONGRESS  
1ST SESSION

# H. R. 2722

To implement a system of requirements on the importation of diamonds,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2001

Mr. HOUGHTON (for himself, Mr. RANGEL, Mr. HALL of Ohio, Mr. WOLF, Mr. ROYCE, Mr. PAYNE, Mr. EHLERS, Mr. LANTOS, Mr. COOKSEY, Mr. RUSH, Mr. GREENWOOD, Mr. GEORGE MILLER of California, Mr. FLETCHER, Mr. ACKERMAN, Mr. LATOURETTE, Ms. CARSON of Indiana, Mrs. NORTHUP, Mr. BOUCHER, Mr. ROGERS of Michigan, Mr. ALLEN, Mr. SCHAFFER, Mr. DELAHUNT, Mr. WELDON of Florida, Ms. BALDWIN, Mr. UPTON, Mr. McDERMOTT, Mr. DIAZ-BALART, Ms. RIVERS, Mr. ENGLISH, Mr. SNYDER, Mr. UDALL of Colorado, Ms. WOOLSEY, Mr. COYNE, Mr. STARK, Mr. JEFFERSON, Mr. NEAL of Massachusetts, Mr. EVANS, Mr. HOEFFEL, and Mr. LEWIS of Georgia) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To implement a system of requirements on the importation  
of diamonds, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Clean Diamond Trade  
5 Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Diamonds are being used by rebels and dic-  
4 tators to finance military activities, overthrow legiti-  
5 mate governments, subvert international efforts to  
6 promote peace and stability, and commit horrifying  
7 atrocities against unarmed civilians. During the past  
8 decade, more than 6,500,000 people from Sierra  
9 Leone, Angola, and the Democratic Republic of the  
10 Congo have been driven from their homes by wars  
11 waged in large part for control of diamond mining  
12 areas. A million of these are refugees eking out a  
13 miserable existence in neighboring countries, and  
14 tens of thousands have fled to the United States.  
15 Approximately 3,700,000 people have died during  
16 these wars.

17 (2) The countries caught in this fighting are  
18 home to nearly 70,000,000 people whose societies  
19 have been torn apart not only by fighting but also  
20 by terrible human rights violations.

21 (3) Human rights advocates, the diamond trade  
22 as represented by the World Diamond Council, and  
23 the United States Government recently began work-  
24 ing to block the trade in conflict diamonds. Their ef-  
25 forts have helped to build a consensus that action is

1 urgently needed to end the trade in conflict dia-  
2 monds.

3 (4) The United Nations Security Council, act-  
4 ing under chapter VII of the Charter of the United  
5 Nations, has prohibited all states from importing  
6 diamonds from, and exporting weapons to, certain  
7 countries affected by diamond-related conflicts. Un-  
8 fortunately, diamond smugglers continue funding  
9 rebel movements, which has led in turn to regional  
10 destabilization, arms proliferation, and other activi-  
11 ties which are a potential threat to the essential se-  
12 curity interests of the United States, and the United  
13 Nations sanctions have not been sufficiently effective  
14 to achieve their goals. In order to put an end to this  
15 emergency situation in international relations, to  
16 maintain international peace and security, and to  
17 protect its essential security interests, and pursuant  
18 to its obligations under the United Nations Charter,  
19 the United States must take action against this il-  
20 licit trade and smuggling of conflict diamonds.

21 (5) Articles XX and XXI of GATT 1994 allow  
22 WTO member countries to take measures to deal  
23 with situations such as that presented by the current  
24 trade in conflict diamonds without violating their  
25 WTO obligations.

1           (6) Without effective action to eliminate trade  
2 in conflict diamonds, the trade in legitimate dia-  
3 monds faces the threat of a consumer backlash that  
4 could damage the economies of countries not in-  
5 volved in the trade in conflict diamonds and penalize  
6 members of the legitimate trade and the people they  
7 employ. To prevent that, South Africa and more  
8 than 20 other countries are involved in working,  
9 through the “Kimberley Process”, toward devising a  
10 solution to this problem. As the consumer of a ma-  
11 jority of the world’s supply of diamonds, the United  
12 States has an obligation to help sever the link be-  
13 tween diamonds and conflict and press for imple-  
14 mentation of an effective solution.

15           (7) Trade in conflict diamonds could have a se-  
16 vere negative impact on the legitimate diamond  
17 trade in countries such as Botswana, Namibia,  
18 South Africa, and Tanzania.

19           (8) Initiatives of the United States seek to re-  
20 solve the regional conflicts in sub-Saharan Africa  
21 which facilitate the trade in conflict diamonds.

22 **SEC. 3. DEFINITIONS.**

23 In this Act:

24           (1) **DIAMONDS.**—The term “diamonds” means  
25 diamonds classified under subheading 7102.31.00 or

1 subheading 7102.39.00 of the Harmonized Tariff  
2 Schedule of the United States.

3 (2) GATT 1994.—The term “GATT 1994”  
4 means the General Agreement on Tariffs and Trade  
5 annexed to the WTO Agreement.

6 (3) POLISHED DIAMONDS.—The term “polished  
7 diamonds” means diamonds that are classified under  
8 subheading 7102.39.00 of the Harmonized Tariff  
9 Schedule of the United States.

10 (4) ROUGH DIAMONDS.—The term “rough dia-  
11 monds” means diamonds that are unworked, or sim-  
12 ply sawn, cleaved, or bruted, classified under sub-  
13 heading 7102.31.00 of the Harmonized Tariff  
14 Schedule of the United States.

15 (5) UNITED STATES.—The term “United  
16 States”, when used in the geographic sense, means  
17 the several States, the District of Columbia, and any  
18 commonwealth, territory, or possession of the United  
19 States.

20 (6) WTO AGREEMENT.—The term “WTO  
21 Agreement” means the Agreement Establishing the  
22 World Trade Organization entered into on April 15,  
23 1994.

24 (7) WORLD TRADE ORGANIZATION AND WTO.—  
25 The terms “World Trade Organization” and

1 “WTO” mean the organization established pursuant  
2 to the WTO Agreement.

3 **SEC. 4. REQUIREMENTS FOR THE IMPORTATION OF DIA-**  
4 **MONDS.**

5 (a) REQUIREMENTS.—

6 (1) ROUGH DIAMONDS.—Rough diamonds may  
7 not be imported into the United States from a coun-  
8 try unless the country exporting the rough diamonds  
9 is implementing a system of controls on the export  
10 from, and import into, that country of rough dia-  
11 monds that—

12 (A) meets the requirements of paragraph  
13 (2), consistent with United Nations General As-  
14 sembly Resolution 55/56 adopted on December  
15 1, 2000;

16 (B) the President determines to be func-  
17 tionally equivalent to the system of controls  
18 specified in subparagraph (A); or

19 (C) meets the requirements of an inter-  
20 national agreement which requires controls de-  
21 scribed in subparagraph (A) and to which the  
22 United States is a party.

23 (2) SYSTEM OF CONTROLS.—The system of  
24 controls referred to in paragraph (1)(A) shall in-  
25 clude the following requirements:

1 (A) Rough diamonds, when exported from  
2 the country in which they were extracted, shall  
3 be sealed in a secure, transparent container or  
4 bag by appropriate government officials of that  
5 country.

6 (B) The sealed container or bag described  
7 in subparagraph (A) shall include a fully visible  
8 document that—

9 (i) certifies the country from which  
10 the rough diamonds were extracted;

11 (ii) records a unique export registra-  
12 tion number for, and the total carat weight  
13 of, the rough diamonds in the container or  
14 bag; and

15 (iii) is issued by the government of  
16 that country.

17 (C) The country from whose territory the  
18 rough diamonds are first exported shall main-  
19 tain at least the information on exports of  
20 rough diamonds described in subparagraph (B).

21 (D) Any country into whose territory the  
22 rough diamonds are first imported prior to  
23 polishing or other processing—

24 (i) shall permit importation of the  
25 rough diamonds only in a container or bag

1 described in subparagraphs (A) and (B);  
2 and

3 (ii) shall verify, on the basis of docu-  
4 mentation provided to it by electronic or  
5 other reliable means, the legitimacy of the  
6 export document included in the sealed  
7 container or bag in which the rough dia-  
8 monds were shipped, using the information  
9 maintained by the country of export.

10 (E) Appropriate government authorities of  
11 countries that import rough diamonds shall  
12 conduct reasonable physical inspections of a  
13 sampling of the sealed containers and bags of  
14 rough diamonds to ensure compliance with the  
15 requirements of this paragraph.

16 (3) POLISHED DIAMONDS.—Polished diamonds  
17 may not be imported into the United States from a  
18 country unless the country exporting the  
19 diamonds—

20 (A) is implementing a system of controls  
21 on the export from, and import into, that coun-  
22 try of rough diamonds described in paragraph  
23 (1), except that such system shall not be re-  
24 quired for those countries that do not import  
25 rough diamonds; and

1 (B) requires that its own imports of dia-  
2 monds originate from countries that have imple-  
3 mented a system of controls on the export and  
4 import of rough diamonds described in para-  
5 graph (1).

6 (4) JEWELRY CONTAINING DIAMONDS.—Jew-  
7 elry containing diamonds may not be imported into  
8 the United States from a country unless the country  
9 exporting the jewelry—

10 (A) is implementing a system of controls  
11 on the export and import of rough diamonds  
12 described in paragraph (1), except that such  
13 system shall not be required for those countries  
14 that do not import rough diamonds; and

15 (B) requires that its own imports of dia-  
16 monds originate from countries that have imple-  
17 mented a system of controls on the export and  
18 import of rough diamonds described in para-  
19 graph (1).

20 (5) EXCLUSIONS.—

21 (A) IN GENERAL.—The provisions of this  
22 subsection do not apply to—

23 (i) jewelry containing diamonds im-  
24 ported by or on behalf of a person for per-

1           sonal use and accompanying a person upon  
2           entry into the United States; or

3           (ii) diamonds or jewelry containing  
4           diamonds, previously exported from the  
5           United States and reimported by the same  
6           importer, without having been advanced in  
7           value or improved in condition by any  
8           process or other means while abroad, if the  
9           importer declares that the reimportation of  
10          the diamonds or jewelry, as the case may  
11          be, satisfies the requirements of this  
12          clause.

13           (B) REGULATIONS.—The Secretary of the  
14          Treasury is authorized to promulgate regula-  
15          tions to ensure that the exclusions described in  
16          subparagraph (A) do not become a means to  
17          evade the requirements made by this section.

18          (b) MONITORING.—The President shall ensure that  
19          any system of controls described in subsection (a)(1) is  
20          monitored by appropriate agencies of the United States.

21          (c) PRESIDENTIAL ADVISORY COMMISSION.—

22           (1) PURPOSE.—The President shall appoint an  
23          advisory commission the purpose of which shall be to  
24          make recommendations to the President on the ef-  
25          fectiveness of the monitoring system under sub-

1 section (b), and on ways to improve that monitoring  
2 system.

3 (2) MEMBERSHIP.—The advisory commission  
4 shall be composed of 9 members, 2 of whom shall be  
5 representatives of private and voluntary organiza-  
6 tions, and 2 of whom shall be representatives of the  
7 diamond industry. The remaining members may be  
8 appointed from appropriate agencies of the United  
9 States and other interested parties.

10 **SEC. 5. ENFORCEMENT.**

11 Diamonds and jewelry containing diamonds imported  
12 into the United States in violation of section 4 are subject  
13 to the seizure and forfeiture laws, and all criminal and  
14 civil laws of the United States shall apply, to the same  
15 extent as any other violation of the customs and naviga-  
16 tion laws of the United States.

17 **SEC. 6. WAIVER AUTHORITY.**

18 (a) WAIVER AUTHORITY.—The President may at any  
19 time waive the applicability of this Act with respect to a  
20 country for a period of not more than 6 months if the  
21 President, before granting the waiver—

22 (1) determines that the country is cooperating  
23 because the country—

1 (A) is making significant progress toward  
2 concluding an international agreement such as  
3 the one described in section 11; or

4 (B) is acting in good faith to establish and  
5 enforce a unilateral certification system con-  
6 taining the requirements described in section  
7 4(a); and

8 (2) transmits that determination, with the rea-  
9 sons therefor, to Congress.

10 (b) EVALUATION CRITERIA.—Not later than 180  
11 days after the date of enactment of this Act, the Presi-  
12 dent, in consultation with the heads of appropriate Fed-  
13 eral agencies, shall develop and publish criteria that will  
14 be used to evaluate whether or not a country is a cooper-  
15 ating country for purposes of subsection (a). Before adopt-  
16 ing such criteria in final form, the President shall provide  
17 for public notice of, and a period for public comment on,  
18 the criteria.

19 **SEC. 7. ANNUAL REPORTS.**

20 Not later than 6 months after the date of the enact-  
21 ment of this Act, and not later than September 30 of each  
22 subsequent calendar year, the President shall transmit to  
23 Congress a report—

1 (1) describing and evaluating the effectiveness  
2 of any system of controls on trade in diamonds de-  
3 scribed in section 4(a)(1);

4 (2) identifying those countries that are imple-  
5 menting those controls;

6 (3) identifying those countries that are not im-  
7 plementing those controls, and describing the effects  
8 of that failure on the trade in diamonds used to sup-  
9 port conflict in the country or regions in which the  
10 diamonds are extracted; and

11 (4) describing in detail technological develop-  
12 ments that allow—

13 (A) the determination of where a diamond  
14 was mined; and

15 (B) the marking and tracking of rough  
16 and polished diamonds.

17 **SEC. 8. GAO REPORT.**

18 Not later than 3 years after the date of enactment  
19 of this Act, the Comptroller General of the United States  
20 shall transmit a report to Congress on the effectiveness  
21 of the provisions of this Act in preventing the importation  
22 of diamonds traded in violation of any system of controls  
23 described in section 4(a)(1). The Comptroller General  
24 shall include in the report any recommendations on any  
25 modifications to this Act that may be necessary.

1 **SEC. 9. STATUTORY CONSTRUCTION.**

2 This Act may not be construed to apply to restric-  
3 tions on the importation of diamonds in effect on its date  
4 of enactment or to diminish the authority of the President  
5 under the International Emergency Economic Powers Act  
6 or any other Act to impose restrictions on the importation  
7 of diamonds after such date.

8 **SEC. 10. CONSISTENCY OF ACTIONS UNDER THIS ACT WITH**  
9 **THE WTO.**

10 (a) **STATUTORY CONSTRUCTION.**—Nothing in this  
11 Act requires the Secretary of the Treasury or the Commis-  
12 sioner of Customs to take any action that would be a viola-  
13 tion of United States obligations under the agreements of  
14 the World Trade Organization, as determined in any dis-  
15 pute settlement proceeding under the WTO.

16 (b) **SENSE OF CONGRESS.**—It is the sense of Con-  
17 gress that, in the event there is a determination in any  
18 dispute settlement proceeding under the WTO that this  
19 Act, any part of this Act, or any action taken under this  
20 Act is inconsistent with United States obligations under  
21 the WTO, the United States will take such steps as are  
22 necessary to bring itself into conformity with its WTO ob-  
23 ligations.

24 **SEC. 11. SENSE OF CONGRESS.**

25 (a) **SENSE OF CONGRESS ON NEGOTIATION OF AN**  
26 **INTERNATIONAL TRADE AGREEMENT.**—It is the sense of

1 Congress that the President should take the necessary  
2 steps to negotiate an international trade agreement, work-  
3 ing in concert with the Kimberley Process referred to in  
4 section 2(6), to eliminate the trade in diamonds used to  
5 support conflict in the country or regions in which the dia-  
6 monds are extracted. Such an agreement should create an  
7 effective global certification system covering diamond ex-  
8 porting and importing countries, and should include—

9           (1) the requirements described in section 4(a);

10           (2) a requirement that any country from whose  
11 territory rough diamonds are exported publish an-  
12 nual reports disclosing the names of all entities and  
13 individuals who hold mining concessions, licenses to  
14 purchase rough diamonds, and licenses to export  
15 rough diamonds, as well as the volume and value of  
16 such diamonds exported categorized by country of  
17 importation; and

18           (3) a requirement that any country into whose  
19 territory rough diamonds are imported publish an-  
20 nual reports disclosing the source by country of ex-  
21 portation of its diamond imports as well as the vol-  
22 ume and value of such diamonds for each such coun-  
23 try of exportation.

24           (b) SENSE OF CONGRESS REGARDING TRADE IN LE-  
25 GITIMATE DIAMONDS.—It is the sense of Congress that

1 the provisions of this Act should not impede the trade in  
2 legitimate diamonds with countries which are working con-  
3 structively to eliminate trade in conflict diamonds, includ-  
4 ing through the negotiation of an effective international  
5 trade agreement to eliminate trade in conflict diamonds.

6 **SEC. 12. SENSE OF CONGRESS ON IMPLEMENTATION OF**  
7 **THE SYSTEM OF CONTROLS.**

8 It is the sense of Congress that companies involved  
9 in diamond extraction and trade should make financial  
10 contributions to countries seeking to implement any sys-  
11 tem of controls described in section 4(a)(1), if those coun-  
12 tries would have financial difficulty implementing that sys-  
13 tem of controls.

14 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

15 There is authorized to be appropriated to the Presi-  
16 dent \$5,000,000 for fiscal year 2002 to provide assistance  
17 to countries seeking to implement any system of controls  
18 described in section 4(a)(1), if those countries would have  
19 financial difficulty implementing that system of controls.

20 **SEC. 14. EFFECTIVE DATE.**

21 This Act shall take effect 6 months after its date of  
22 enactment.

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