

108TH CONGRESS
1ST SESSION

H. R. 1584

IN THE SENATE OF THE UNITED STATES

APRIL 9, 2003

Received

AN ACT

To implement effective measures to stop trade in conflict 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Clean Diamond Trade
3 Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Funds derived from the sale of rough dia-
7 monds are being used by rebels and state actors to
8 finance military activities, overthrow legitimate gov-
9 ernments, subvert international efforts to promote
10 peace and stability, and commit horrifying atrocities
11 against unarmed civilians. During the past decade,
12 more than 6,500,000 people from Sierra Leone, An-
13 gola, and the Democratic Republic of the Congo
14 have been driven from their homes by wars waged
15 in large part for control of diamond mining areas.
16 A million of these are refugees eking out a miserable
17 existence in neighboring countries, and tens of thou-
18 sands have fled to the United States. Approximately
19 3,700,000 people have died during these wars.

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

24 (3) Human rights and humanitarian advocates,
25 the diamond trade as represented by the World Dia-
26 mond Council, and the United States Government

1 have been working to block the trade in conflict dia-
2 monds. Their efforts have helped to build a con-
3 sensus that action is urgently needed to end the
4 trade in conflict diamonds.

5 (4) The United Nations Security Council has
6 acted at various times under chapter VII of the
7 Charter of the United Nations to address threats to
8 international peace and security posed by conflicts
9 linked to diamonds. Through these actions, it has
10 prohibited all states from exporting weapons to cer-
11 tain countries affected by such conflicts. It has fur-
12 ther required all states to prohibit the direct and in-
13 direct import of rough diamonds from Sierra Leone
14 unless the diamonds are controlled under specified
15 certificate of origin regimes and to prohibit abso-
16 lutely the direct and indirect import of rough dia-
17 monds from Liberia.

18 (5) In response, the United States implemented
19 sanctions restricting the importation of rough dia-
20 monds from Sierra Leone to those diamonds accom-
21 panied by specified certificates of origin and fully
22 prohibiting the importation of rough diamonds from
23 Liberia. The United States is now taking further ac-
24 tion against trade in conflict diamonds.

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 30 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) Failure to curtail the trade in conflict dia-
16 monds or to differentiate between the trade in con-
17 flict diamonds and the trade in legitimate diamonds
18 could have a severe negative impact on the legiti-
19 mate diamond trade in countries such as Botswana,
20 Namibia, South Africa, and Tanzania.

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

24 (9) The Interlaken Declaration on the Kim-
25 berley Process Certification Scheme for Rough Dia-

1 monds of November 5, 2002, states that Partici-
2 pants will ensure that measures taken to implement
3 the Kimberley Process Certification Scheme for
4 Rough Diamonds will be consistent with inter-
5 national trade rules.

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

8 (1) APPROPRIATE CONGRESSIONAL COMMIT-
9 TEES.—The term “appropriate congressional com-
10 mittees” means the Committee on Ways and Means
11 and the Committee on International Relations of the
12 House of Representatives, and the Committee on Fi-
13 nance and the Committee on Foreign Relations of
14 the Senate.

15 (2) CONTROLLED THROUGH THE KIMBERLEY
16 PROCESS CERTIFICATION SCHEME.—An importation
17 or exportation of rough diamonds is “controlled
18 through the Kimberley Process Certification
19 Scheme” if it is an importation from the territory of
20 a Participant or exportation to the territory of a
21 Participant of rough diamonds that is—

22 (A) carried out in accordance with the
23 Kimberley Process Certification Scheme, as set
24 forth in regulations promulgated by the Presi-
25 dent; or

1 (B) controlled under a system determined
2 by the President to meet substantially the
3 standards, practices, and procedures of the
4 Kimberley Process Certification Scheme.

5 (3) EXPORTING AUTHORITY.—The term “ex-
6 porting authority” means 1 or more entities des-
7 ignated by a Participant from whose territory a
8 shipment of rough diamonds is being exported as
9 having the authority to validate the Kimberley Proc-
10 ess Certificate.

11 (4) IMPORTING AUTHORITY.—The term “im-
12 porting authority” means 1 or more entities des-
13 ignated by a Participant into whose territory a ship-
14 ment of rough diamonds is imported as having the
15 authority to enforce the laws and regulations of the
16 Participant regulating imports, including the
17 verification of the Kimberley Process Certificate ac-
18 companying the shipment.

19 (5) KIMBERLEY PROCESS CERTIFICATE.—The
20 term “Kimberley Process Certificate” means a for-
21 gery resistant document of a Participant that dem-
22 onstrates that an importation or exportation of
23 rough diamonds has been controlled through the
24 Kimberley Process Certification Scheme and con-

1 tains the minimum elements set forth in Annex I to
2 the Kimberley Process Certification Scheme.

3 (6) KIMBERLEY PROCESS CERTIFICATION
4 SCHEME.—The term “Kimberley Process Certifi-
5 cation Scheme” means those standards, practices,
6 and procedures of the international certification
7 scheme for rough diamonds presented in the docu-
8 ment entitled “Kimberley Process Certification
9 Scheme” referred to in the Interlaken Declaration
10 on the Kimberley Process Certification Scheme for
11 Rough Diamonds of November 5, 2002.

12 (7) PARTICIPANT.—The term “Participant”
13 means a state, customs territory, or regional eco-
14 nomic integration organization identified by the Sec-
15 retary of State.

16 (8) PERSON.—The term “person” means an in-
17 dividual or entity.

18 (9) ROUGH DIAMOND.—The term “rough dia-
19 mond” means any diamond that is unworked or sim-
20 ply sawn, cleaved, or bruted and classifiable under
21 subheading 7102.10, 7102.21, or 7102.31 of the
22 Harmonized Tariff Schedule of the United States.

23 (10) UNITED STATES.—The term “United
24 States”, when used in the geographic sense, means
25 the several States, the District of Columbia, and any

1 commonwealth, territory, or possession of the United
2 States.

3 (11) UNITED STATES PERSON.—The term
4 “United States person” means—

5 (A) any United States citizen or any alien
6 admitted for permanent residence into the
7 United States;

8 (B) any entity organized under the laws of
9 the United States or any jurisdiction within the
10 United States (including its foreign branches);
11 and

12 (C) any person in the United States.—

13 **SEC. 4. MEASURES FOR THE IMPORTATION AND EXPOR-**
14 **TATION OF ROUGH DIAMONDS.**

15 (a) PROHIBITION.—The President shall prohibit the
16 importation into, or exportation from, the United States
17 of any rough diamond, from whatever source, that has not
18 been controlled through the Kimberley Process Certifi-
19 cation Scheme.

20 (b) WAIVER.—The President may waive the require-
21 ments set forth in subsection (a) with respect to a par-
22 ticular country for periods of not more than 1 year each,
23 if, with respect to each such waiver—

24 (1) the President determines and reports to the
25 appropriate congressional committees that such

1 country is taking effective steps to implement the
2 Kimberley Process Certification Scheme; or

3 (2) the President determines that the waiver is
4 in the national interests of the United States, and
5 reports such determination to the appropriate con-
6 gressional committees, together with the reasons
7 therefor.

8 **SEC. 5. REGULATORY AND OTHER AUTHORITY.**

9 (a) IN GENERAL.—The President is authorized to
10 and shall as necessary issue such proclamations, regula-
11 tions, licenses, and orders, and conduct such investiga-
12 tions, as may be necessary to carry out this Act.

13 (b) RECORDKEEPING.—Any United States person
14 seeking to export from or import into the United States
15 any rough diamonds shall keep a full record of, in the form
16 of reports or otherwise, complete information relating to
17 any act or transaction to which any prohibition imposed
18 under section 4(a) applies. The President may require
19 such person to furnish such information under oath, in-
20 cluding the production of books of account, records, con-
21 tracts, letters, memoranda, or other papers, in the custody
22 or control of such person.

23 (c) OVERSIGHT.—The President shall require the ap-
24 propriate Government agency to conduct annual reviews
25 of the standards, practices, and procedures of any entity

1 in the United States that issues Kimberley Process Certifi-
2 cates for the exportation from the United States of rough
3 diamonds to determine whether such standards, practices,
4 and procedures are in accordance with the Kimberley
5 Process Certification Scheme. The President shall trans-
6 mit to the appropriate congressional committees a report
7 on each annual review under this subsection.

8 **SEC. 6. IMPORTING AND EXPORTING AUTHORITIES.**

9 (a) IN THE UNITED STATES.—For purposes of this
10 Act—

11 (1) the importing authority shall be the United
12 States Bureau of Customs and Border Protection or,
13 in the case of a territory or possession of the United
14 States with its own customs administration, analo-
15 gous officials; and

16 (2) the exporting authority shall be the Bureau
17 of the Census.

18 (b) OF OTHER COUNTRIES.—The President shall
19 publish in the Federal Register a list of all Participants,
20 and all exporting authorities and importing authorities of
21 Participants. The Secretary shall update the list as nec-
22 essary.

23 **SEC. 7. STATEMENT OF POLICY.**

24 The Congress supports the policy that the President
25 shall take appropriate steps to promote and facilitate the

1 adoption by the international community of the Kimberley
2 Process Certification Scheme implemented under this Act.

3 **SEC. 8. ENFORCEMENT.**

4 (a) IN GENERAL.—In addition to the enforcement
5 provisions set forth in subsection (b)—

6 (1) a civil penalty of not to exceed \$10,000 may
7 be imposed on any person who violates, or attempts
8 to violate, any license, order, or regulation issued
9 under this Act; and

10 (2) whoever willfully violates, or willfully at-
11 tempts to violate, any license, order, or regulation
12 issued under this Act shall, upon conviction, be fined
13 not more than \$50,000, or, if a natural person, may
14 be imprisoned for not more than 10 years, or both;
15 and any officer, director, or agent of any corporation
16 who willfully participates in such violation may be
17 punished by a like fine, imprisonment, or both.

18 (b) IMPORT VIOLATIONS.—Those customs laws of the
19 United States, both civil and criminal, including those
20 laws relating to seizure and forfeiture, that apply to arti-
21 cles imported in violation of such laws shall apply with
22 respect to rough diamonds imported in violation of this
23 Act.

24 (c) AUTHORITY TO ENFORCE.—The United States
25 Bureau of Customs and Border Protection and the United

1 States Bureau of Immigration and Customs Enforcement
2 are authorized, as appropriate, to enforce the provisions
3 of subsection (a) and to enforce the laws and regulations
4 governing exports of rough diamonds, including with re-
5 spect to the validation of the Kimberley Process Certifi-
6 cate by the exporting authority.

7 **SEC. 9. TECHNICAL ASSISTANCE.**

8 The President may direct the appropriate agencies of
9 the United States Government to make available technical
10 assistance to countries seeking to implement the Kim-
11 berley Process Certification Scheme.

12 **SEC. 10. SENSE OF CONGRESS.**

13 (a) ONGOING PROCESS.—It is the sense of the Con-
14 gress that the Kimberley Process Certification Scheme, of-
15 ficially launched on January 1, 2003, is an ongoing proc-
16 ess. The President should work with Participants to
17 strengthen the Kimberley Process Certification Scheme
18 through the adoption of measures for the sharing of statis-
19 tics on the production of and trade in rough diamonds,
20 and for monitoring the effectiveness of the Kimberley
21 Process Certification Scheme in stemming trade in dia-
22 monds the importation or exportation of which is not con-
23 trolled through the Kimberley Process Certification
24 Scheme.

1 (b) STATISTICS AND REPORTING.—It is the sense of
2 the Congress that under Annex III to the Kimberley Proc-
3 ess Certification Scheme, Participants recognized that re-
4 liable and comparable data on the international trade in
5 rough diamonds are an essential tool for the effective im-
6 plementation of the Kimberley Process Certification
7 Scheme. Therefore, the executive branch should continue
8 to—

9 (1) keep and publish statistics on imports and
10 exports of rough diamonds under subheadings
11 7102.10.00, 7102.21, and 7102.31.00 of the Har-
12 monized Tariff Schedule of the United States;

13 (2) make these statistics available for analysis
14 by interested parties and by Participants; and

15 (3) take a leadership role in negotiating a
16 standardized methodology among Participants for
17 reporting statistics on imports and exports of rough
18 diamonds.

19 **SEC. 11. KIMBERLEY PROCESS IMPLEMENTATION COORDI-**
20 **NATING COMMITTEE.**

21 The President shall establish a Kimberley Process
22 Implementation Coordinating Committee to coordinate the
23 implementation of this Act. The Committee should be
24 composed of the following individuals or their designees:

1 (1) The Secretary of the Treasury and the Sec-
2 retary of State, to serve as co-chairpersons.

3 (2) The Secretary of Commerce.

4 (3) The United States Trade Representative.

5 (4) The Secretary of Homeland Security.

6 (5) A representative of any other agency the
7 President deems appropriate.

8 **SEC. 12. REPORTS.**

9 (a) ANNUAL REPORTS.—Not later than 1 year after
10 the date of the enactment of this Act and every 12 months
11 thereafter for such period as this Act is in effect, the
12 President shall transmit to the Congress a report—

13 (1) describing actions taken by countries that
14 have exported rough diamonds to the United States
15 during the preceding 12-month period to control the
16 exportation of the diamonds through the Kimberley
17 Process Certification Scheme;

18 (2) describing whether there is statistical infor-
19 mation or other evidence that would indicate efforts
20 to circumvent the Kimberley Process Certification
21 Scheme, including cutting rough diamonds for the
22 purpose of circumventing the Kimberley Process
23 Certification Scheme;

24 (3) identifying each country that, during the
25 preceding 12-month period, exported rough dia-

1 monds to the United States and was exporting rough
2 diamonds not controlled through the Kimberley
3 Process Certification Scheme, if the failure to do so
4 has significantly increased the likelihood that those
5 diamonds not so controlled are being imported into
6 the United States; and

7 (4) identifying any problems or obstacles en-
8 countered in the implementation of this Act or the
9 Kimberly Process Certification Scheme.

10 (b) SEMIANNUAL REPORTS.—For each country iden-
11 tified in subsection (a)(3), the President, during such pe-
12 riod as this Act is in effect, shall, every 6 months after
13 the initial report in which the country was identified,
14 transmit to the Congress a report that explains what ac-
15 tions have been taken by the United States or such coun-
16 try since the previous report to ensure that diamonds the
17 exportation of which was not controlled through the Kim-
18 berley Process Certification Scheme are not being im-
19 ported from that country into the United States. The re-
20 quirement to issue a semiannual report with respect to a
21 country under this subsection shall remain in effect until
22 such time as the country is controlling the importation and
23 exportation of rough diamonds through the Kimberley
24 Process Certification Scheme.

1 **SEC. 13. GAO REPORT.**

2 Not later than 24 months after the effective date of
3 this Act, the Comptroller General of the United States
4 shall transmit a report to the Congress on the effective-
5 ness of the provisions of this Act in preventing the impor-
6 tation or exportation of rough diamonds that is prohibited
7 under section 4. The Comptroller General shall include in
8 the report any recommendations on any modifications to
9 this Act that may be necessary.

10 **SEC. 14. DELEGATION OF AUTHORITIES.**

11 The President may delegate the duties and authori-
12 ties under this Act to such officers, officials, departments,
13 or agencies of the United States Government as the Presi-
14 dent deems appropriate.

15 **SEC. 15. EFFECTIVE DATE.**

16 This Act shall take effect on the date on which the
17 President certifies to the Congress that—

18 (1) an applicable waiver that has been granted
19 by the World Trade Organization is in effect; or

20 (2) an applicable decision in a resolution adopt-
21 ed by the United Nations Security Council pursuant
22 to Chapter VII of the Charter of the United Nations
23 is in effect.

24 This Act shall thereafter remain in effect during those pe-
25 riods in which, as certified by the President to the Con-

