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To implement effective measures to stop trade in conflict diamonds, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 18, 2002

Mr. DURBIN (for himself, Mr. DEWINE, and Mr. FEINGOLD) introduced the
following bill; which was read twice and referred to the Committee on Finance

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Funds derived from the sale of rough dia-
9 monds are being used by rebels, state actors, and
10 terrorists to finance military activities, overthrow le-

1 gitimate governments, subvert international efforts
 2 to promote peace and stability, and commit horri-
 3 fying atrocities against unarmed civilians. During
 4 the past decade, more than 6,500,000 people from
 5 Sierra Leone, Angola, and the Democratic Republic
 6 of the Congo have been driven from their homes by
 7 wars waged in large part for control of diamond
 8 mining areas. A million of these are refugees eking
 9 out a miserable existence in neighboring countries,
 10 and tens of thousands have fled to the United
 11 States. Approximately 3,700,000 people have died
 12 during these wars.

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

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

24 (4) The United Nations Security Council has
 25 acted at various times under chapter VII of the

1 Charter of the United Nations to address threats to
2 international peace and security posed by conflicts
3 linked to diamonds. Through these actions, it has
4 prohibited all states from exporting weapons to cer-
5 tain countries affected by such conflicts. It has fur-
6 ther required all states to prohibit the direct and in-
7 direct import of rough diamonds from Angola and
8 Sierra Leone unless the diamonds are controlled
9 under specified certificate of origin regimes and to
10 prohibit absolutely for a period of 12 months the di-
11 rect and indirect import of rough diamonds from Li-
12 beria.

13 (5) In response, the United States implemented
14 sanctions restricting the importation of rough dia-
15 monds from Angola and Sierra Leone to those dia-
16 monds accompanied by specified certificates of origin
17 and fully prohibiting the importation of rough dia-
18 monds from Liberia. In order to put an end to the
19 emergency situation in international relations, to
20 maintain international peace and security, and to
21 protect its essential security interests, and pursuant
22 to its obligations under the United Nations Charter,
23 the United States is now taking further action
24 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) Articles XX and XXI of the General Agree-
16 ment on Tariffs and Trade 1994 allow members of
17 the World Trade Organization to take measures to
18 deal with situations such as that presented by the
19 current trade in conflict diamonds without violating
20 their World Trade Organization obligations.

21 (8) Failure to curtail the trade in conflict dia-
22 monds or to differentiate between the trade in con-
23 flict diamonds and the trade in legitimate diamonds
24 could have a severe negative impact on the legiti-

1 mate diamond trade in countries such as Botswana,
2 Namibia, South Africa, and Tanzania.

3 (9) Initiatives of the United States seek to re-
4 solve the regional conflicts in sub-Saharan Africa
5 which facilitate the trade in conflict diamonds.

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

8 (1) CONFLICT DIAMONDS.—The term “conflict
9 diamonds” means—

10 (A) rough diamonds the importation of
11 which is prohibited by United Nations Security
12 Council Resolutions because that trade is fuel-
13 ing conflict;

14 (B) in the case of rough diamonds not cov-
15 ered by subparagraph (A), rough diamonds
16 used by any armed movement or an ally of an
17 armed movement to finance or sustain oper-
18 ations to carry out systematic human rights
19 abuses or attacks against unarmed civilians; or

20 (C) diamonds that evidence shows fund the
21 al-Qaeda international terrorist network and re-
22 lated groups designated under Executive Order
23 No. 13224 of September 23, 2001 (66 Federal
24 Register 49079).

1 (2) DIAMONDS.—The term “diamonds” means
 2 diamonds classifiable under subheading 7102.31.00
 3 or subheading 7102.39.00 of the Harmonized Tariff
 4 Schedule of the United States.

5 (3) POLISHED DIAMONDS.—The term “polished
 6 diamonds” means diamonds classifiable under sub-
 7 heading 7102.39.00 of the Harmonized Tariff
 8 Schedule of the United States.

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

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

19 **SEC. 4. MEASURES TO PREVENT IMPORTS OF CONFLICT**
 20 **DIAMONDS.**

21 (a) AUTHORITY OF THE PRESIDENT.—Notwith-
 22 standing any other provision of law, the President shall
 23 prohibit, in whole or in part, the importation into the
 24 United States of rough diamonds, and may prohibit the
 25 importation into the United States of polished diamonds

1 and jewelry containing diamonds, from any country that
2 does not take effective measures to stop trade in conflict
3 diamonds as long as the prohibition is consistent with the
4 foreign policy interests of the United States, including the
5 international obligations of the United States, or is pursu-
6 ant to United Nations Security Council Resolutions on
7 conflict diamonds.

8 (b) EFFECTIVE MEASURES.—For purposes of this
9 Act, effective measures are measures that—

10 (1) meet the requirements of United Nations
11 Security Council Resolutions on trade in conflict dia-
12 monds;

13 (2) meet the requirements of an international
14 arrangement on conflict diamonds, including the rec-
15 ommendations of the Kimberley Process, as long as
16 the measures also meet the requirements of United
17 Nations Security Council Resolutions on trade in
18 conflict diamonds; or

19 (3) contain the following elements, or their
20 functional equivalent, if such elements are sufficient
21 to meet the requirements of United Nations Security
22 Council Resolutions on trade in conflict diamonds:

23 (A) With respect to exports from countries
24 where rough diamonds are extracted, secure
25 packaging, accompanied by officially validated

1 documentation certifying the country of origin,
2 total carat weight, and value.

3 (B) With respect to exports from countries
4 where rough diamonds are extracted, a system
5 of verifiable controls on rough diamonds from
6 mine to export.

7 (C) With respect to countries that reexport
8 rough diamonds, a system of controls designed
9 to ensure that no conflict diamonds have en-
10 tered the legitimate trade in rough diamonds.

11 (D) Verifiable recordkeeping by all compa-
12 nies and individuals engaged in mining, import,
13 and export of rough diamonds within the terri-
14 tory of the exporting country, subject to inspec-
15 tion and verification by authorized government
16 authorities in accordance with national regula-
17 tions.

18 (E) Government publication on a periodic
19 basis of official rough diamond export and im-
20 port statistics.

21 (F) Implementation of proportionate and
22 dissuasive penalties against any persons who
23 violate laws and regulations designed to combat
24 trade in conflict diamonds.

1 (G) Full cooperation with the United Na-
2 tions or other official international bodies exam-
3 ining the trade in conflict diamonds, especially
4 with respect to any inspection and monitoring
5 of the trade in rough diamonds.

6 (c) EXCLUSIONS.—The provisions of this section do
7 not apply to—

8 (1) rough diamonds imported by or on behalf of
9 a person for personal use and accompanying a per-
10 son upon entry into the United States; or

11 (2) rough diamonds previously exported from
12 the United States and reimported by the same im-
13 porter, without having been advanced in value or im-
14 proved in condition by any process or other means
15 while abroad, if the importer declares that the re-
16 importation of the rough diamonds satisfies the re-
17 quirements of this paragraph.

18 **SEC. 5. PROHIBITION OF POLISHED DIAMONDS AND JEW-**
19 **ELRY.**

20 The President shall prohibit specific entries into the
21 customs territory of the United States of polished dia-
22 monds and jewelry containing diamonds if the President
23 has credible evidence that such polished diamonds and
24 jewelry were produced with conflict diamonds.

1 **SEC. 6. ENFORCEMENT.**

2 (a) IN GENERAL.—Diamonds and jewelry containing
3 diamonds imported into the United States in violation of
4 any prohibition imposed under section 4 or 5 are subject
5 to the seizure and forfeiture laws, and all criminal and
6 civil laws of the United States shall apply, to the same
7 extent as any other violation of the customs and naviga-
8 tion laws of the United States.

9 (b) PROCEEDS FROM FINES AND FORFEITED
10 GOODS.—Notwithstanding any other provision of law, the
11 proceeds derived from fines imposed for violations of sec-
12 tion 4(a), and from the seizure and forfeiture of goods
13 imported in violation of section 4(a), shall, in addition to
14 amounts otherwise available for such purposes, be avail-
15 able only for—

16 (1) the Leahy War Victims Fund administered
17 by the United States Agency for International De-
18 velopment or any successor program to assist victims
19 of foreign wars; and

20 (2) grants under section 131 of the Foreign As-
21 sistance Act of 1961 (22 U.S.C. 2152a).

22 **SEC. 7. REPORTS.**

23 (a) ANNUAL REPORTS.—Not later than one year
24 after the effective date of this Act, and every 12 months
25 thereafter, the President shall transmit to Congress a
26 report—

1 (1) describing actions taken by countries that
2 have exported diamonds to the United States during
3 the preceding 12-month period to implement effective
4 measures to stop trade in conflict diamonds;

5 (2) describing any new technologies since the
6 date of enactment of this Act for marking diamonds
7 or determining the origin of rough diamonds;

8 (3) identifying those countries that have ex-
9 ported diamonds to the United States during the
10 preceding 12-month period and are not imple-
11 menting effective measures to stop trade in conflict
12 diamonds and whose failure to do so has signifi-
13 cantly increased the likelihood that conflict dia-
14 monds are being imported into the United States;

15 (4) describing appropriate actions, which may
16 include actions under sections 4 and 5, that may be
17 taken by the United States, or actions that may be
18 taken or are being taken by each country identified
19 under paragraph (3), to ensure that conflict dia-
20 monds are not being imported into the United States
21 from such country; and

22 (5) identifying any additional countries involved
23 in conflicts linked to rough diamonds that are not
24 the subject of United Nations Security Council Res-
25 olutions on conflict diamonds.

1 (b) SEMIANNUAL REPORTS.—For each country iden-
2 tified in subsection (a)(3), the President shall, every 6
3 months after the initial report in which the country was
4 identified, transmit to Congress a report that explains
5 what actions have been taken by the United States or such
6 country since the previous report to ensure that conflict
7 diamonds are not being imported from that country into
8 the United States. The requirement to issue a semiannual
9 report with respect to a country under this subsection
10 shall remain in effect until such time as the country imple-
11 ments effective measures.

12 **SEC. 8. GAO REPORT.**

13 Not later than 3 years after the effective date of this
14 Act, the Comptroller General of the United States shall
15 transmit a report to Congress on the effectiveness of the
16 provisions of this Act in preventing the importation of con-
17 flict diamonds under section 4. The Comptroller General
18 shall include in the report any recommendations on any
19 modifications to this Act that may be necessary.

20 **SEC. 9. SENSE OF CONGRESS.**

21 (a) INTERNATIONAL ARRANGEMENT.—It is the sense
22 of Congress that the President should take the necessary
23 steps to negotiate an international arrangement, working
24 in concert with the Kimberley Process referred to in sec-
25 tion 2(6), to eliminate the trade in conflict diamonds. Such

1 an international arrangement should create an effective
2 global system of controls covering countries that export
3 and import rough diamonds, should contain the elements
4 described in section 4(b)(3), and should address inde-
5 pendent monitoring, the collection of reliable statistics on
6 the diamond trade, and the need for a coordinating body
7 or secretariat to implement the arrangement.

8 (b) ADDITIONAL SECURITY COUNCIL RESOLU-
9 TIONS.—It is the sense of Congress that the President
10 should take the necessary steps to seek United Nations
11 Security Council Resolutions with respect to trade in dia-
12 monds from additional countries identified under section
13 7(a)(5).

14 (c) TRADE IN LEGITIMATE DIAMONDS.—It is the
15 sense of Congress that the provisions of this Act should
16 not impede the trade in legitimate diamonds with coun-
17 tries which are working constructively to eliminate trade
18 in conflict diamonds, including through the negotiation of
19 an effective international arrangement to eliminate trade
20 in conflict diamonds.

21 (d) IMPLEMENTATION OF EFFECTIVE MEASURES.—
22 It is the sense of Congress that companies involved in dia-
23 mond extraction and trade should make financial contribu-
24 tions to countries seeking to implement any effective
25 measures to stop trade in conflict diamonds described in

1 section 4(b), if those countries would have financial dif-
2 ficulty implementing those measures.

3 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

4 There is authorized to be appropriated to the Presi-
5 dent \$5,000,000 for each of the fiscal years 2002 and
6 2003 to provide assistance to countries seeking to imple-
7 ment any effective measures to stop trade in conflict dia-
8 monds described in section 4(b), if those countries would
9 have financial difficulty implementing those measures.

10 **SEC. 11. EFFECTIVE DATE.**

11 This Act shall take effect on the date of the enact-
12 ment of this Act.

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