108th CONGRESS
1st Session

H. R. 1584

AN ACT

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

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Clean Diamond Trade Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Funds derived from the sale of rough diamonds are being used by rebels and state actors to finance military activities, overthrow legitimate governments, subvert international efforts to promote peace and stability, and commit horrifying atrocities against unarmed civilians. During the past decade, more than 6,500,000 people from Sierra Leone, Angola, and the Democratic Republic of the Congo have been driven from their homes by wars waged in large part for control of diamond mining areas. A million of these are refugees eking out a miserable existence in neighboring countries, and tens of thousands have fled to the United States. Approximately 3,700,000 people have died during these wars.

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

(3) Human rights and humanitarian advocates, the diamond trade as represented by the World Diamond Council, and the United States Government

have been working to block the trade in conflict diamonds. Their efforts have helped to build a consensus that action is urgently needed to end the trade in conflict diamonds.

(4) The United Nations Security Council has acted at various times under chapter VII of the Charter of the United Nations to address threats to international peace and security posed by conflicts linked to diamonds. Through these actions, it has prohibited all states from exporting weapons to certain countries affected by such conflicts. It has further required all states to prohibit the direct and indirect import of rough diamonds from Sierra Leone unless the diamonds are controlled under specified certificate of origin regimes and to prohibit absolutely the direct and indirect import of rough diamonds from Liberia.

(5) In response, the United States implemented sanctions restricting the importation of rough diamonds from Sierra Leone to those diamonds accompanied by specified certificates of origin and fully prohibiting the importation of rough diamonds from Liberia. The United States is now taking further action against trade in conflict diamonds.

(6) Without effective action to eliminate trade in conflict diamonds, the trade in legitimate diamonds faces the threat of a consumer backlash that could damage the economies of countries not involved in the trade in conflict diamonds and penalize members of the legitimate trade and the people they employ. To prevent that, South Africa and more than 30 other countries are involved in working, through the ''Kimberley Process'', toward devising a solution to this problem. As the consumer of a majority of the world's supply of diamonds, the United States has an obligation to help sever the link between diamonds and conflict and press for implementation of an effective solution.

(7) Failure to curtail the trade in conflict diamonds or to differentiate between the trade in conflict diamonds and the trade in legitimate diamonds could have a severe negative impact on the legitimate diamond trade in countries such as Botswana, Namibia, South Africa, and Tanzania.

(8) Initiatives of the United States seek to resolve the regional conflicts in sub-Saharan Africa which facilitate the trade in conflict diamonds.

(9) The Interlaken Declaration on the Kimberley Process Certification Scheme for Rough Dia-

monds of November 5, 2002, states that Participants will ensure that measures taken to implement the Kimberley Process Certification Scheme for Rough Diamonds will be consistent with international trade rules.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Ways and Means and the Committee on International Relations of the House of Representatives, and the Committee on Finance and the Committee on Foreign Relations of the Senate.

(2) CONTROLLED THROUGH THE KIMBERLEY PROCESS CERTIFICATION SCHEME.—An importation or exportation of rough diamonds is ''controlled through the Kimberley Process Certification Scheme'' if it is an importation from the territory of a Participant or exportation to the territory of a Participant of rough diamonds that is—

(A) carried out in accordance with the Kimberley Process Certification Scheme, as set forth in regulations promulgated by the President; or

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

(3) EXPORTING AUTHORITY.—The term ''exporting authority'' means 1 or more entities designated by a Participant from whose territory a shipment of rough diamonds is being exported as having the authority to validate the Kimberley Process Certificate.

(4) IMPORTING AUTHORITY.—The term ''importing authority'' means 1 or more entities designated by a Participant into whose territory a shipment of rough diamonds is imported as having the authority to enforce the laws and regulations of the Participant regulating imports, including the verification of the Kimberley Process Certificate accompanying the shipment.

(5) KIMBERLEY PROCESS CERTIFICATE.—The term ''Kimberley Process Certificate'' means a forgery resistant document of a Participant that demonstrates that an importation or exportation of rough diamonds has been controlled through the Kimberley Process Certification Scheme and con-

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

(6) KIMBERLEY PROCESS CERTIFICATION SCHEME.—The term ''Kimberley Process Certification Scheme' means those standards, practices, and procedures of the international certification scheme for rough diamonds presented in the document entitled ''Kimberley Process Certification Scheme'' referred to in the Interlaken Declaration on the Kimberley Process Certification Scheme for Rough Diamonds of November 5, 2002.

(7) PARTICIPANT.—The term ''Participant'' means a state, customs territory, or regional economic integration organization identified by the Secretary of State.

(8) PERSON.—The term ''person'' means an individual or entity.

(9) ROUGH DIAMOND.—The term ''rough diamond'' means any diamond that is unworked or simply sawn, cleaved, or bruted and classifiable under subheading 7102.10, 7102.21, or 7102.31 of the Harmonized Tariff Schedule of the United States.

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

commonwealth, territory, or possession of the United States.

(11) UNITED STATES PERSON.—The term ''United States person'' means—

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

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

(C) any person in the United States.

SEC. 4. MEASURES FOR THE IMPORTATION AND EXPORTATION OF ROUGH DIAMONDS.

(a) PROHIBITION.—The President shall prohibit the importation into, or exportation from, the United States of any rough diamond, from whatever source, that has not been controlled through the Kimberley Process Certification Scheme.

(b) WAIVER.—The President may waive the requirements set forth in subsection (a) with respect to a particular country for periods of not more than 1 year each, if, with respect to each such waiver—

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

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

(2) the President determines that the waiver is in the national interests of the United States, and reports such determination to the appropriate congressional committees, together with the reasons therefor.

SEC. 5. REGULATORY AND OTHER AUTHORITY.

(a) IN GENERAL.—The President is authorized to and shall as necessary issue such proclamations, regulations, licenses, and orders, and conduct such investigations, as may be necessary to carry out this Act.

(b) RECORDKEEPING.—Any United States person seeking to export from or import into the United States any rough diamonds shall keep a full record of, in the form of reports or otherwise, complete information relating to any act or transaction to which any prohibition imposed under section 4(a) applies. The President may require such person to furnish such information under oath, including the production of books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

(c) OVERSIGHT.—The President shall require the appropriate Government agency to conduct annual reviews of the standards, practices, and procedures of any entity

in the United States that issues Kimberley Process Certificates for the exportation from the United States of rough diamonds to determine whether such standards, practices, and procedures are in accordance with the Kimberley Process Certification Scheme. The President shall transmit to the appropriate congressional committees a report on each annual review under this subsection.

SEC. 6. IMPORTING AND EXPORTING AUTHORITIES.

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

(1) the importing authority shall be the United States Bureau of Customs and Border Protection or, in the case of a territory or possession of the United States with its own customs administration, analogous officials; and

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

(b) OF OTHER COUNTRIES.—The President shall publish in the Federal Register a list of all Participants, and all exporting authorities and importing authorities of Participants. The Secretary shall update the list as necessary.

SEC. 7. STATEMENT OF POLICY.

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

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

SEC. 8. ENFORCEMENT.

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

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

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

(b) IMPORT VIOLATIONS.—Those customs laws of the United States, both civil and criminal, including those laws relating to seizure and forfeiture, that apply to articles imported in violation of such laws shall apply with respect to rough diamonds imported in violation of this Act.

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

States Bureau of Immigration and Customs Enforcement are authorized, as appropriate, to enforce the provisions of subsection (a) and to enforce the laws and regulations governing exports of rough diamonds, including with respect to the validation of the Kimberley Process Certificate by the exporting authority.

SEC. 9. TECHNICAL ASSISTANCE.

The President may direct the appropriate agencies of the United States Government to make available technical assistance to countries seeking to implement the Kimberley Process Certification Scheme.

SEC. 10. SENSE OF CONGRESS.

(a) ONGOING PROCESS.—It is the sense of the Congress that the Kimberley Process Certification Scheme, officially launched on January 1, 2003, is an ongoing process. The President should work with Participants to strengthen the Kimberley Process Certification Scheme through the adoption of measures for the sharing of statistics on the production of and trade in rough diamonds, and for monitoring the effectiveness of the Kimberley Process Certification Scheme in stemming trade in diamonds the importation or exportation of which is not controlled through the Kimberley Process Certification Scheme.

(b) STATISTICS AND REPORTING.—It is the sense of the Congress that under Annex III to the Kimberley Process Certification Scheme, Participants recognized that reliable and comparable data on the international trade in rough diamonds are an essential tool for the effective implementation of the Kimberley Process Certification Scheme. Therefore, the executive branch should continue to—

(1) keep and publish statistics on imports and exports of rough diamonds under subheadings 7102.10.00, 7102.21, and 7102.31.00 of the Harmonized Tariff Schedule of the United States;

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

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

SEC. 11. KIMBERLEY PROCESS IMPLEMENTATION COORDINATING COMMITTEE.

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

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

(2) The Secretary of Commerce.

(3) The United States Trade Representative.

(4) The Secretary of Homeland Security.

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

SEC. 12. REPORTS.

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

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

(2) describing whether there is statistical information or other evidence that would indicate efforts to circumvent the Kimberley Process Certification Scheme, including cutting rough diamonds for the purpose of circumventing the Kimberley Process Certification Scheme;

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

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

(4) identifying any problems or obstacles encountered in the implementation of this Act or the Kimberly Process Certification Scheme.

(b) SEMIANNUAL REPORTS.—For each country identified in subsection (a)(3), the President, during such period as this Act is in effect, shall, every 6 months after the initial report in which the country was identified, transmit to the Congress a report that explains what actions have been taken by the United States or such country since the previous report to ensure that diamonds the exportation of which was not controlled through the Kimberley Process Certification Scheme are not being imported from that country into the United States. The requirement to issue a semiannual report with respect to a country under this subsection shall remain in effect until such time as the country is controlling the importation and exportation of rough diamonds through the Kimberley Process Certification Scheme.

SEC. 13. GAO REPORT.

Not later than 24 months after the effective date of this Act, the Comptroller General of the United States shall transmit a report to the Congress on the effectiveness of the provisions of this Act in preventing the importation or exportation of rough diamonds that is prohibited under section 4. The Comptroller General shall include in the report any recommendations on any modifications to this Act that may be necessary.

SEC. 14. DELEGATION OF AUTHORITIES.

The President may delegate the duties and authorities under this Act to such officers, officials, departments, or agencies of the United States Government as the President deems appropriate.

SEC. 15. EFFECTIVE DATE.

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

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

(2) an applicable decision in a resolution adopted by the United Nations Security Council pursuant to Chapter VII of the Charter of the United Nations is in effect.

This Act shall thereafter remain in effect during those periods in which, as certified by the President to the Con-

1 gress, an applicable waiver or decision referred to in para-
2 graph (1) or (2) is in effect.

Passed the House of Representatives April 8, 2003.

Attest:

Clerk.