

In the Senate of the United States,

April 10, 2003.

Resolved, That the bill from the House of Representatives (H.R. 1584) entitled “An Act to implement effective measures to stop trade in conflict diamonds, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Clean Diamond Trade*

3 *Act”.*

1 **SEC. 2. FINDINGS.**

2 *Congress finds the following:*

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

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

21 *(3) Human rights and humanitarian advocates,*
22 *the diamond trade as represented by the World Dia-*
23 *mond Council, and the United States Government*
24 *have been working to block the trade in conflict dia-*
25 *monds. Their efforts have helped to build a consensus*

1 *that action is urgently needed to end the trade in con-*
2 *flict diamonds.*

3 *(4) The United Nations Security Council has*
4 *acted at various times under chapter VII of the Char-*
5 *ter of the United Nations to address threats to inter-*
6 *national peace and security posed by conflicts linked*
7 *to diamonds. Through these actions, it has prohibited*
8 *all states from exporting weapons to certain countries*
9 *affected by such conflicts. It has further required all*
10 *states to prohibit the direct and indirect import of*
11 *rough diamonds from Sierra Leone unless the dia-*
12 *monds are controlled under specified certificate of ori-*
13 *gin regimes and to prohibit absolutely the direct and*
14 *indirect import of rough diamonds from Liberia.*

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

22 *(6) Without effective action to eliminate trade in*
23 *conflict diamonds, the trade in legitimate diamonds*
24 *faces the threat of a consumer backlash that could*
25 *damage the economies of countries not involved in the*

1 *trade in conflict diamonds and penalize members of*
2 *the legitimate trade and the people they employ. To*
3 *prevent that, South Africa and more than 30 other*
4 *countries are involved in working, through the “Kim-*
5 *berley Process”, toward devising a solution to this*
6 *problem. As the consumer of a majority of the world’s*
7 *supply of diamonds, the United States has an obliga-*
8 *tion to help sever the link between diamonds and con-*
9 *flict and press for implementation of an effective solu-*
10 *tion.*

11 *(7) Failure to curtail the trade in conflict dia-*
12 *monds or to differentiate between the trade in conflict*
13 *diamonds and the trade in legitimate diamonds could*
14 *have a severe negative impact on the legitimate dia-*
15 *mond trade in countries such as Botswana, Namibia,*
16 *South Africa, and Tanzania.*

17 *(8) Initiatives of the United States seek to resolve*
18 *the regional conflicts in sub-Saharan Africa which fa-*
19 *cilitate the trade in conflict diamonds.*

20 *(9) The Interlaken Declaration on the Kimberley*
21 *Process Certification Scheme for Rough Diamonds of*
22 *November 5, 2002, states that Participants will en-*
23 *sure that measures taken to implement the Kimberley*
24 *Process Certification Scheme for Rough Diamonds*
25 *will be consistent with international trade rules.*

1 **SEC. 3. DEFINITIONS.**

2 *In this Act:*

3 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*
4 *TEES.*—*The term “appropriate congressional commit-*
5 *tees” means the Committee on Ways and Means and*
6 *the Committee on International Relations of the*
7 *House of Representatives, and the Committee on Fi-*
8 *nance and the Committee on Foreign Relations of the*
9 *Senate.*

10 (2) *CONTROLLED THROUGH THE KIMBERLEY*
11 *PROCESS CERTIFICATION SCHEME.*—*An importation*
12 *or exportation of rough diamonds is “controlled*
13 *through the Kimberley Process Certification Scheme”*
14 *if it is an importation from the territory of a Partici-*
15 *pant or exportation to the territory of a Participant*
16 *of rough diamonds that is—*

17 (A) *carried out in accordance with the*
18 *Kimberley Process Certification Scheme, as set*
19 *forth in regulations promulgated by the Presi-*
20 *dent; or*

21 (B) *controlled under a system determined*
22 *by the President to meet substantially the stand-*
23 *ards, practices, and procedures of the Kimberley*
24 *Process Certification Scheme.*

25 (3) *EXPORTING AUTHORITY.*—*The term “export-*
26 *ing authority” means 1 or more entities designated*

1 *by a Participant from whose territory a shipment of*
2 *rough diamonds is being exported as having the au-*
3 *thority to validate the Kimberley Process Certificate.*

4 (4) *IMPORTING AUTHORITY.*—*The term “import-*
5 *ing authority” means 1 or more entities designated*
6 *by a Participant into whose territory a shipment of*
7 *rough diamonds is imported as having the authority*
8 *to enforce the laws and regulations of the Participant*
9 *regulating imports, including the verification of the*
10 *Kimberley Process Certificate accompanying the ship-*
11 *ment.*

12 (5) *KIMBERLEY PROCESS CERTIFICATE.*—*The*
13 *term “Kimberley Process Certificate” means a forgery*
14 *resistant document of a Participant that demonstrates*
15 *that an importation or exportation of rough dia-*
16 *monds has been controlled through the Kimberley*
17 *Process Certification Scheme and contains the min-*
18 *imum elements set forth in Annex I to the Kimberley*
19 *Process Certification Scheme.*

20 (6) *KIMBERLEY PROCESS CERTIFICATION*
21 *SCHEME.*—*The term “Kimberley Process Certification*
22 *Scheme’ means those standards, practices, and proce-*
23 *dures of the international certification scheme for*
24 *rough diamonds presented in the document entitled*
25 *“Kimberley Process Certification Scheme” referred to*

1 *in the Interlaken Declaration on the Kimberley Proc-*
 2 *ess Certification Scheme for Rough Diamonds of No-*
 3 *vember 5, 2002.*

4 (7) *PARTICIPANT.*—*The term “Participant”*
 5 *means a state, customs territory, or regional economic*
 6 *integration organization identified by the Secretary*
 7 *of State.*

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

10 (9) *ROUGH DIAMOND.*—*The term “rough dia-*
 11 *mond” means any diamond that is unworked or sim-*
 12 *ply sawn, cleaved, or bruted and classifiable under*
 13 *subheading 7102.10, 7102.21, or 7102.31 of the Har-*
 14 *monized Tariff Schedule of the United States.*

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

20 (11) *UNITED STATES PERSON.*—*The term*
 21 *“United States person” means—*

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

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

5 (C) any person in the United States.

6 **SEC. 4. MEASURES FOR THE IMPORTATION AND EXPOR-**
7 **TATION OF ROUGH DIAMONDS.**

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

13 (b) *WAIVER.*—The President may waive the require-
14 ments set forth in subsection (a) with respect to a particular
15 country for periods of not more than 1 year each, if, with
16 respect to each such waiver—

17 (1) the President determines and reports to the
18 appropriate congressional committees that such coun-
19 try is taking effective steps to implement the Kim-
20 berley Process Certification Scheme; or

21 (2) the President determines that the waiver is
22 in the national interests of the United States, and re-
23 ports such determination to the appropriate congres-
24 sional committees, together with the reasons therefor.

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

2 (a) *IN GENERAL.*—*The President is authorized to and*
3 *shall as necessary issue such proclamations, regulations, li-*
4 *censes, and orders, and conduct such investigations, as may*
5 *be necessary to carry out this Act.*

6 (b) *RECORDKEEPING.*—*Any United States person seek-*
7 *ing to export from or import into the United States any*
8 *rough diamonds shall keep a full record of, in the form of*
9 *reports or otherwise, complete information relating to any*
10 *act or transaction to which any prohibition imposed under*
11 *section 4(a) applies. The President may require such person*
12 *to furnish such information under oath, including the pro-*
13 *duction of books of account, records, contracts, letters,*
14 *memoranda, or other papers, in the custody or control of*
15 *such person.*

16 (c) *OVERSIGHT.*—*The President shall require the ap-*
17 *propriate Government agency to conduct annual reviews of*
18 *the standards, practices, and procedures of any entity in*
19 *the United States that issues Kimberley Process Certificates*
20 *for the exportation from the United States of rough dia-*
21 *monds to determine whether such standards, practices, and*
22 *procedures are in accordance with the Kimberley Process*
23 *Certification Scheme. The President shall transmit to the*
24 *appropriate congressional committees a report on each an-*
25 *nual review under this subsection.*

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

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

4 (1) *the importing authority shall be the United*
5 *States Bureau of Customs and Border Protection or,*
6 *in the case of a territory or possession of the United*
7 *States with its own customs administration, analo-*
8 *gous officials; and*

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

11 (b) *OF OTHER COUNTRIES.*—The President shall pub-
12 *lish in the Federal Register a list of all Participants, and*
13 *all exporting authorities and importing authorities of Par-*
14 *ticipants. The President shall update the list as necessary.*

15 **SEC. 7. STATEMENT OF POLICY.**

16 *The Congress supports the policy that the President*
17 *shall take appropriate steps to promote and facilitate the*
18 *adoption by the international community of the Kimberley*
19 *Process Certification Scheme implemented under this Act.*

20 **SEC. 8. ENFORCEMENT.**

21 (a) *IN GENERAL.*—In addition to the enforcement pro-
22 *visions set forth in subsection (b)—*

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

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

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

14 (c) *AUTHORITY TO ENFORCE.—The United States Bu-*
15 *reau of Customs and Border Protection and the United*
16 *States Bureau of Immigration and Customs Enforcement*
17 *are authorized, as appropriate, to enforce the provisions of*
18 *subsection (a) and to enforce the laws and regulations gov-*
19 *erning exports of rough diamonds, including with respect*
20 *to the validation of the Kimberley Process Certificate by*
21 *the exporting authority.*

22 **SEC. 9. TECHNICAL ASSISTANCE.**

23 *The President may direct the appropriate agencies of*
24 *the United States Government to make available technical*

1 assistance to countries seeking to implement the Kimberley
2 Process Certification Scheme.

3 **SEC. 10. SENSE OF CONGRESS.**

4 (a) *ONGOING PROCESS.*—It is the sense of the Congress
5 that the Kimberley Process Certification Scheme, officially
6 launched on January 1, 2003, is an ongoing process. The
7 President should work with Participants to strengthen the
8 Kimberley Process Certification Scheme through the adop-
9 tion of measures for the sharing of statistics on the produc-
10 tion of and trade in rough diamonds, and for monitoring
11 the effectiveness of the Kimberley Process Certification
12 Scheme in stemming trade in diamonds the importation or
13 exportation of which is not controlled through the Kim-
14 berley Process Certification Scheme.

15 (b) *STATISTICS AND REPORTING.*—It is the sense of the
16 Congress that under Annex III to the Kimberley Process
17 Certification Scheme, Participants recognized that reliable
18 and comparable data on the international trade in rough
19 diamonds are an essential tool for the effective implementa-
20 tion of the Kimberley Process Certification Scheme. There-
21 fore, the executive branch should continue to—

22 (1) keep and publish statistics on imports and
23 exports of rough diamonds under subheadings
24 7102.10.00, 7102.21, and 7102.31.00 of the Har-
25 monized Tariff Schedule of the United States;

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

3 (3) *take a leadership role in negotiating a stand-*
4 *ardized methodology among Participants for report-*
5 *ing statistics on imports and exports of rough dia-*
6 *monds.*

7 **SEC. 11. KIMBERLEY PROCESS IMPLEMENTATION COORDI-**
8 **NATING COMMITTEE.**

9 *The President shall establish a Kimberley Process Im-*
10 *plementation Coordinating Committee to coordinate the im-*
11 *plementation of this Act. The Committee shall be composed*
12 *of the following individuals or their designees:*

13 (1) *The Secretary of the Treasury and the Sec-*
14 *retary of State, who shall be co-chairpersons.*

15 (2) *The Secretary of Commerce.*

16 (3) *The United States Trade Representative.*

17 (4) *The Secretary of Homeland Security.*

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

20 **SEC. 12. REPORTS.**

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

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

6 (2) *describing whether there is statistical infor-*
7 *mation or other evidence that would indicate efforts*
8 *to circumvent the Kimberley Process Certification*
9 *Scheme, including cutting rough diamonds for the*
10 *purpose of circumventing the Kimberley Process Cer-*
11 *tification Scheme;*

12 (3) *identifying each country that, during the*
13 *preceding 12-month period, exported rough diamonds*
14 *to the United States and was exporting rough dia-*
15 *monds not controlled through the Kimberley Process*
16 *Certification Scheme, if the failure to do so has sig-*
17 *nificantly increased the likelihood that those dia-*
18 *monds not so controlled are being imported into the*
19 *United States; and*

20 (4) *identifying any problems or obstacles encoun-*
21 *tered in the implementation of this Act or the Kim-*
22 *berly Process Certification Scheme.*

23 (b) *SEMIANNUAL REPORTS.*—*For each country identi-*
24 *fied in subsection (a)(3), the President, during such period*
25 *as this Act is in effect, shall, every 6 months after the initial*

1 *report in which the country was identified, transmit to the*
2 *Congress a report that explains what actions have been*
3 *taken by the United States or such country since the pre-*
4 *vious report to ensure that diamonds the exportation of*
5 *which was not controlled through the Kimberley Process*
6 *Certification Scheme are not being imported from that*
7 *country into the United States. The requirement to issue*
8 *a semiannual report with respect to a country under this*
9 *subsection shall remain in effect until such time as the*
10 *country is controlling the importation and exportation of*
11 *rough diamonds through the Kimberley Process Certifi-*
12 *cation Scheme.*

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

14 *Not later than 24 months after the effective date of this*
15 *Act, the Comptroller General of the United States shall*
16 *transmit a report to the Congress on the effectiveness of the*
17 *provisions of this Act in preventing the importation or ex-*
18 *portation of rough diamonds that is prohibited under sec-*
19 *tion 4. The Comptroller General shall include in the report*
20 *any recommendations on any modifications to this Act that*
21 *may be necessary.*

22 **SEC. 14. DELEGATION OF AUTHORITIES.**

23 *The President may delegate the duties and authorities*
24 *under this Act to such officers, officials, departments, or*

1 *agencies of the United States Government as the President*
2 *deems appropriate.*

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

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

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

8 *(2) an applicable decision in a resolution adopt-*
9 *ed by the United Nations Security Council pursuant*
10 *to Chapter VII of the Charter of the United Nations*
11 *is in effect.*

12 *This Act shall thereafter remain in effect during those peri-*
13 *ods in which, as certified by the President to the Congress,*
14 *an applicable waiver or decision referred to in paragraph*
15 *(1) or (2) is in effect.*

Attest:

Secretary.

108TH CONGRESS
1ST SESSION

H. R. 1584

AMENDMENT