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REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO SIERRA LEONE AND LIBERIA AND IMPLEMENTING THE CLEAN DIAMOND TRADE ACT

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO SIERRA LEONE AND LIBERIA THAT WAS DECLARED IN EXECUTIVE ORDER 13194, OF JANUARY 18, 2001 AND EXPANDED IN SCOPE IN EXECUTIVE ORDER 13213, OF MAY 22, 2001 ALSO TO IMPLEMENT THE "CLEAN DIAMOND TRADE ACT", PUBLIC LAW 108–19, PURSUANT TO 50 U.S.C. 1703(b) AND 50 U.S.C. 1631



SEPTEMBER 13, 2003.—Referred to the Committee on International Relations and ordered to be printed

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THE WHITE HOUSE,
Washington, July 29, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Consistent with section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b), and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have issued an Executive Order (copy attached) to implement the Clean Diamond Trade Act, Public Law 108–19 (the "Act"), which authorizes the President to take steps to implement the Kimberley Process Certification Scheme (KPCS) for rough diamonds in the United States. In addition, my Executive Order amends Executive Orders 13194 and 13213 to harmonize those orders with the Act and to reflect recent developments in Sierra Leone and Liberia. The prohibitions in section 1 and 3 of the order take effect at 12:01 a.m. eastern daylight time on July 30, 2003, and the remaining provisions of the order take effect immediately.

On January 18, 2001, the President issued Executive Order 13194 taking into account United Nations Security Council Resolution (UNSCR) 1306 of July 5, 2000. That order declared a national emergency in response to the role played by the illicit trade in diamonds in fueling conflict and human rights violations in Sierra Leone and prohibited the importation into the United States of rough diamonds from Sierra Leone that were not controlled by the Government of Sierra Leone through its Certificate of Origin regime.

On May 22, 2001, I issued Executive Order 13213 taking into account UNSCR 1343 of March 7, 2001. That order expanded the scope of the national emergency declared in Executive Order 13194 to respond to, among other things, the Government of Liberia's complicity in the illicit trade in rough diamonds through Liberia. Executive Order 13213 prohibited the direct or indirect importation into the United States of all rough diamonds from Liberia, whether or not such diamonds originated in Liberia, except to the extent provided in regulations, orders, directives, or licenses issued pursuant to the order.

The United Nations ban against the importation of rough diamonds from Sierra Leone without a certificate of origin, imposed by UNSCR 1306 and renewed by UNSCR 1446 of December 4, 2002, expired on June 4, 2003. The United Nations Security Council decided not to renew the measure in light of the Government of Sierra Leone's increased efforts to control and manage its diamond industry and ensure proper control over diamond mining areas, as well as the Government's full participation in the KPCS. Although the hostilities fueled by and funded with conflict diamonds have

ceased in Sierra Leone, the attendant peace and stability are tentative, fragile, and jeopardized by ongonig illicit diamond production and smuggling. In addition, the Security Council, through UNSCR 1478 of May 6, 2003, renewed for 1 year the absolute import ban on rough diamonds from Liberia based on evidence that the Government of Liberia continues to breach the measures imposed by UNSCR 1343.

In a related development, representatives of the United States and numerous other countries, including Sierra Leone, announced in the Interlaken Declaration of November 5, 2002, the launch of the KPCS. Participants in KPCS are expected to prohibit the importation of rough diamonds from, or the exportation of rough diamonds to, a non-Participant and to require that shipments of rough diamonds from or to a Participant be controlled through the KPCS. The Clean Diamond Trade Act, which I signed on April 25, 2003, enables the United States to implement the KPCS by providing that, when the Act is in effect, the President shall, subject to certain waiver authorities, prohibit the importation into, or exportation from, the United States of any rough diamond, from whatever source, that has not been controlled through the KPCS.

My Executive Order will implement the Clean Diamond Trade Act and amend Executive Orders 13194 and 13213 to harmonize those orders with the Act and to reflect recent development in Sierra Leone and Liberia. Section 1 of the Executive Order puts in place, as of July 30, 2003, the prohibitions of section 4(a) of the Clean Diamond Trade Act. Section 2 of my Executive Order assigns various functions of the President under the Act to the Secretary of State and the Secretary of the Treasury, including authorizing the Secretary of the Treasury to issue implementing regulations.

Section 3 of my Executive Order amends Executive Order 13194 and 13213 in the following ways. Executive Order 13194 is revised to control rough diamonds from Sierra Leone through the KPCS, rather than through the Certificate of Origin regime of the Government of Sierra Leone. Executive Order 13213 is revised to remove, consistent with section 4(a) of the Clean Diamond Trade Act, licensing and other authorities with respect to rough diamonds from Liberia.

Finally, section 4 of my Executive Order provides that for the purposes of the order and Executive Order 13194, the definitions set forth in section 3 of the Act shall apply, and that the term "Kimberley Process Certification Scheme" shall not be construed to include any changes to the KPCS after April 25, 2003.

My Executive Order demonstrates the U.S. commitment to exclude conflict diamonds from international trade, while promoting the legitimate trade in rough diamonds that is so vital to many nations in Africa and elsewhere.

Sincerely,

GEORGE W. BUSH.

EXECUTIVE ORDER

IMPLEMENTING THE CLEAN DIAMOND TRADE ACT

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Clean Diamond Trade Act (Public Law 108–19) (the "Act"), the International Emergency Economic Powers Act, as amended (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c), and section 301 of title 3, United States Code, and in view of the national emergency described and declared in Executive Order 13194 of January 18, 2001, and expanded in scope in Executive Order 13213 of May 22, 2001,

I, GEORGE W. BUSH, President of the United States of America, note that, in response to the role played by the illicit trade in diamonds in fueling conflict and human rights violations in Sierra Leone, the President declared a national emergency in Executive Order 13194 and imposed restrictions on the importation of rough diamonds into the United States from Sierra Leone. I expanded the scope of that emergency in Executive Order 13213 and prohibited absolutely the importation of rough diamonds from Liberia. I further note that representatives of the United States and numerous other countries announced in the Interlaken Declaration of November 5, 2002, the launch of the Kimberley Process Certification Scheme (KPCS) for rough diamonds, under which Participants prohibit the importation of rough diamonds from or the exportation of rough diamonds to, a non-Participant and require that shipments of rough diamonds from or to a Participant be controlled through the KPCS. The Clean Diamond Trade Act authorizes the President to take steps to implement the KPCS. Therefore, in order to implement the Act, to harmonize Executive Orders 13194 and 13213 with the Act, to address further threats to international peace and security posed by the trade in conflict diamonds, and to avoid undermining the legitimate diamond trade, it is hereby ordered as follows:

Section 1. Prohibitions. Notwithstanding the existence of any rights or obligations conferred or imposed by any contract entered into or any license or permit granted prior to July 30, 2003, the following are, except to the extent a waiver issued under section 4(b) of the Act applies, prohibited:

(a) the importation into, or exportation from, the United States on or after July 30, 2003, of any rough diamond, from whatever source, unless the rough diamond has been controlled through the KPCS;

(b) any transaction by a United States person anywhere, or any transaction that occurs in whole or in part within the United

States, that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this section; and

(c) any conspiracy formed to violate any of the prohibitions of this section.

Sec. 2. Assignment of Functions. (a) The functions of the President under the Act are assigned as follows:

(i) sections 4(b), 5(c), 6(b), 11, and 12 to the Secretary of State; and

(ii) sections 5(a) and 5(b) to the Secretary of the Treasury.

(b) The Secretary of State and the Secretary of the Treasury may reassign any of these functions to other officers, officials, departments, and agencies within the executive branch, consistent with applicable law.

(c) In performing the function of the President under section 11 of the Act, the Secretary of State shall establish the coordinating committee as part of the Department of State for administrative purposes only, and shall, consistent with applicable law, provide administrative support to the coordinating committee. In the performance of functions assigned by subsection 2(a) of this order or by the Act, the Secretary of State, the Secretary of the Treasury, and the Secretary of Homeland Security shall consult the coordinating committee, as appropriate.

Sec. 3. Amendments to Related Executive Orders. (a) Section 1 of Executive Order 13194 of January 18, 2001, is revised to read as follows:

"Section 1. Except to the extent provided by section 2 of this order, and notwithstanding the existence of any rights or obligations conferred or imposed by any contract entered into or any license or permit granted prior to the effective date of this order, the importation into, or exportation from the United States of any rough diamond from Sierra Leone, on or after July 30, 2003, is prohibited."

(b) Section 2 of Executive Order 13194 is revised to read as follows: "*Sec. 2.* The prohibitions in section 1 of this order shall not apply to the importation or exportation of any rough diamond that has been controlled through the Kimberley Process Certification Scheme."

(c) Sections 4(c), (d), and (e) of Executive Order 13194 are deleted, and the word "and" is added after the semicolon at the end of section 4(a).

(d) Section 1 of Executive Order 13213 of May 22, 2001, is revised to read as follows: "*Section 1.* Notwithstanding the existence of any rights or obligations conferred or imposed by any contract entered into or any license or permit granted prior to the effective date of this order, the direct or indirect importation into the United States of all rough diamonds from Liberia, whether or not such diamonds originated in Liberia, on or after July 30, 2003, is prohibited."

Sec. *4. Definitions.* For the purposes of this order and Executive Order 13194, the definitions set forth in section 3 of the Act shall apply, and the term "Kimberley Process Certification Scheme" shall not be construed to include any changes to the KPCS after April 25, 2003.

Sec. 5. General Provisions. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

Sec. 6. Effective Date and Transmittal. (a) Sections 1 and 3 of this order are effective at 12:01 a.m. eastern daylight time on July 30, 2003. The remaining provisions of this order are effective immediately.

(b) This order shall be transmitted to the Congress and published in the *Federal Register*.

GEORGE W. BUSH.

THE WHITE HOUSE, *July 29, 2003.*

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