§ 592.201  Prohibited importation and exportation of any rough diamond; permitted importation or exportation of any rough diamond.

(a) Except to the extent provided in paragraph (b) of this section, 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, the importation into, or exportation from, the United States on or after July 30, 2003, of any rough diamond, from whatever source, is prohibited, unless the rough diamond has been controlled through the Kimberley Process Certification Scheme.

(b) The prohibitions in paragraph (a) of this section regarding the importation into, or exportation from, the United States of any rough diamond not controlled through the Kimberley Process Certification Scheme do not apply to an importation from, or exportation to, any country with respect to which the Secretary of State has granted a waiver pursuant to section 4(b) of the Clean Diamond Trade Act (Pub. L. 108–19) and section 2(a)(i) of Executive Order 13312.

NOTE TO § 592.201. An importation of any rough diamond from, or an exportation of any rough diamond to, a non-Participant is not controlled through the Kimberley Process Certification Scheme and thus is not permitted, except in the following circumstance. The Secretary of State may, pursuant to section 4(b) of the Clean Diamond Trade Act, waive the prohibitions contained in section 4(a) of that Act with respect to a particular country for periods of not more than one year each. The Secretary of State will publish a notice in the Federal Register identifying any country with respect to which a waiver applies and specifying the relevant time period during which the waiver will apply.

§ 592.202  Evasions; attempts; conspiracies.

(a) 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, any transaction by a United States person anywhere, or any transaction that occurs in whole or in part within the United States, on or after the effective date that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this part is prohibited.

(b) 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, any conspiracy formed to violate any of the prohibitions of this part is prohibited.

§ 592.301  Controlled through the Kimberley Process Certification Scheme.

(a) Except as otherwise provided in paragraph (b) of this section, the term controlled through the Kimberley Process Certification Scheme refers to the following requirements that apply, as appropriate, to the importation into the United States from a Participant, or to the exportation from the United States to a Participant, of any shipment including any rough diamond:

1. Kimberley Process Certificate. A shipment of rough diamonds imported into, or exported from, the United States must be accompanied by an original Kimberley Process Certificate. The certificate must be presented in connection with an importation or exportation of rough diamonds if demanded by United States customs officials. Pursuant to 31 CFR §§ 501.601 and 501.602, the person identified as the ultimate consignee (see Customs Directive 3550–079A) on the Customs Form 7501 Entry Summary or its electronic equivalent filed with U.S. Customs and Border Protection in connection with an importation of rough diamonds must retain the original Kimberley Process Certificate for a period of at least five years from the date of importation and must make such certificate available for examination upon demand.

2. Tamper-resistant container. A shipment of rough diamonds imported into, or exported from, the United States must be sealed in a tamper-resistant container;

3. Notification requirements for importations into the United States. The person identified as the ultimate consignee (see Customs Directive 3550–
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§ 592.304 Exporting authority.

(a) The term exporting authority means one or more entities designated

(meets substantially the standards, practices, and procedures of the Kimberley Process Certification Scheme.

Note 1 to §592.301. The Secretary of State will periodically publish in the Federal Register an up-to-date listing of all Participants and their importing and exporting authorities. Where appropriate, such listing also will describe any modification of the requirements set forth in paragraph (a) of this section.

Note 2 to §592.301. Pursuant to 31 CFR §§501.601 and 501.602, the recordkeeping and reporting requirements imposed by §592.501 apply to all U.S. persons engaged in the importation into, or exportation from, the United States of any shipment of rough diamonds.

Note 3 to §592.301. Effective November 1, 2004, customs brokers, importers, and filers making entry of a shipment of rough diamonds must either submit through U.S. Customs' Automated Broker Interface (ABI) system the unique identifying number of the Kimberley Process Certificate accompanying the shipment or, for non-ABI entries, indicate the certificate number on the Customs Form 7501 Entry Summary at each entry line.

Note 4 to §592.301. As of May 21, 2008, any diamond, regardless of value, that is described in subheadings 7102.10, 7102.21 or 7102.31, Harmonized Tariff Schedule of the United States and is imported into the United States shall not be released from the custody of U.S. Customs and Border Protection (CBP) except by a formal entry for consumption, as defined in §141.0a(f) of the CBP regulations. See 19 CFR 141.0a(f).