

(Pub. L. 107–210, div. B, title XXI, §2112, Aug. 6, 2002, 116 Stat. 1021.)

### § 3813. Definitions

In this chapter:

#### (1) Agreement on Agriculture

The term “Agreement on Agriculture” means the agreement referred to in section 3511(d)(2) of this title.

#### (2) Agreement on Safeguards

The term “Agreement on Safeguards<sup>1</sup>” means the agreement referred to in section 3511(d)(13) of this title.

#### (3) Agreement on Subsidies and Countervailing Measures

The term “Agreement on Subsidies and Countervailing Measures” means the agreement referred to in section 3511(d)(12) of this title.

#### (4) Antidumping Agreement

The term “Antidumping Agreement<sup>2</sup>” means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 referred to in section 3511(d)(7) of this title.

#### (5) Appellate Body

The term “Appellate Body” means the Appellate Body established under Article 17.1 of the Dispute Settlement Understanding.

#### (6) Core labor standards

The term “core labor standards” means—

- (A) the right of association;
- (B) the right to organize and bargain collectively;
- (C) a prohibition on the use of any form of forced or compulsory labor;
- (D) a minimum age for the employment of children; and
- (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

#### (7) Dispute Settlement Understanding

The term “Dispute Settlement Understanding” means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 3511(d)(16) of this title.

#### (8) GATT 1994

The term “GATT 1994” has the meaning given that term in section 3501 of this title.

#### (9) ILO

The term “ILO” means the International Labor Organization.

#### (10) Import sensitive agricultural product

The term “import sensitive agricultural product” means an agricultural product—

- (A) with respect to which, as a result of the Uruguay Round Agreements the rate of duty was the subject of tariff reductions by the United States and, pursuant to such

Agreements, was reduced on January 1, 1995, to a rate that was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994; or

(B) which was subject to a tariff-rate quota on August 6, 2002.

#### (11) United States person

The term “United States person” means—

- (A) a United States citizen;
- (B) a partnership, corporation, or other legal entity organized under the laws of the United States; and
- (C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

#### (12) Uruguay Round Agreements

The term “Uruguay Round Agreements” has the meaning given that term in section 3501(7) of this title.

#### (13) World Trade Organization; WTO

The terms “World Trade Organization” and “WTO” mean the organization established pursuant to the WTO Agreement.

#### (14) WTO Agreement

The term “WTO Agreement” means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

#### (15) WTO member

The term “WTO member” has the meaning given that term in section 3501(10) of this title.

(Pub. L. 107–210, div. B, title XXI, §2113, Aug. 6, 2002, 116 Stat. 1021; Pub. L. 108–429, title II, §2004(a)(19), Dec. 3, 2004, 118 Stat. 2591.)

#### AMENDMENTS

2004—Pars. (2), (3). Pub. L. 108–429 redesignated second par. (2), relating to Agreement on Subsidies and Countervailing Measures, as (3), substituted “3511(d)(12)” for “3511(d)(13)”, and in par. (2) relating to Agreement on Safeguards, substituted “3511(d)(13)” for “3511(d)(12)”.

#### CHAPTER 25—CLEAN DIAMOND TRADE

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#### § 3901. 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

<sup>1</sup>So in original. Probably should be followed by closing quotation marks.

<sup>2</sup>So in original. Probably should be closing quotation marks.

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 Diamonds 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.

(Pub. L. 108–19, § 2, Apr. 25, 2003, 117 Stat. 631.)

#### EFFECTIVE DATE

Pub. L. 108–19, § 15, Apr. 25, 2003, 117 Stat. 637, provided that: “This Act [enacting this chapter] 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 Congress, an applicable waiver or decision referred to in paragraph (1) or (2) is in effect.”

[A Presidential message to Congress dated July 29, 2003, set out in 39 Weekly Compilation of Presidential Documents 1002, Aug. 4, 2003, certified that an applicable waiver granted by the World Trade Organization was in effect and would remain in effect until Dec. 31, 2006. On Oct. 8, 2009, the President certified to Congress that an applicable waiver granted by the World Trade Organization had been in effect since Jan. 1, 2003, and would remain in effect through Dec. 31, 2012. See H. Doc. 111–67, Cong. Rec., vol 155, p. H11143, Daily Issue, Oct. 8, 2009.]

#### SHORT TITLE

Pub. L. 108–19, § 1, Apr. 25, 2003, 117 Stat. 631, provided that: “This Act [enacting this chapter] may be cited as the ‘Clean Diamond Trade Act.’”

#### EX. ORD. NO. 13312. IMPLEMENTING THE CLEAN DIAMOND TRADE ACT

Ex. Ord. No. 13312, July 29, 2003, 68 F.R. 45151, provided:

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) [19 U.S.C. 3901 et seq.] (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 [of 1945], 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 [listed in a table under section 1701 of Title 50, War and National Defense], and expanded in scope in Executive Order 13213 of May 22, 2001 [listed in a table under section 1701 of Title 50],

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 [19 U.S.C. 3903(b)] 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) [19 U.S.C. 3903(b)], 5(c) [19 U.S.C. 3904(c)], 6(b) [19 U.S.C. 3905(b)], 11 [19 U.S.C. 3910], and 12 [19 U.S.C. 3911] to the Secretary of State; and

(ii) sections 5(a) [19 U.S.C. 3904(a)] and 5(b) [19 U.S.C. 3904(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) [Amended Ex. Ord. No. 13194.]

(b) [Amended Ex. Ord. No. 13194.]

(c) [Amended Ex. Ord. No. 13194.]

(d) [Amended Ex. Ord. No. 13213.]

SEC. 4. *Definitions.* For the purposes of this order and Executive Order 13194, the definitions set forth in section 3 of the Act [19 U.S.C. 3902] 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.

## § 3902. Definitions

In this chapter:

### (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 contains 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,