

107TH CONGRESS
1ST SESSION

S. 787

To prohibit the importation of diamonds from countries that have not become signatories to an international agreement establishing a certification system for exports and imports of rough diamonds or that have not unilaterally implemented a certification system meeting the standards set forth herein.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2001

Mr. GREGG introduced the following bill; which was referred to the Committee on Finance

A BILL

To prohibit the importation of diamonds from countries that have not become signatories to an international agreement establishing a certification system for exports and imports of rough diamonds or that have not unilaterally implemented a certification system meeting the standards set forth herein.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Conflict Diamonds Act
5 of 2001”.

1 **TITLE I—PROHIBITION ON IM-**
2 **PORTATION OF CONFLICT**
3 **DIAMONDS**

4 **SEC. 101. FINDINGS.**

5 The Congress finds that:

6 (1) The use of funds from illegitimate diamond
7 trade to support conflicts in Africa has had dev-
8 astating effects on the peoples of the regions in-
9 volved in those conflicts.

10 (2) U.N. Security Council Resolution 1173 of
11 June 12, 1998, requires the United States and all
12 other U.N. members to take the necessary measures
13 to prohibit the direct or indirect importation from
14 Angola to their territory of all diamonds that are not
15 controlled through the Certificate of Origin regime
16 of the Government of Unity and National Reconcili-
17 ation (GURN).

18 (3) U.N. Security Council Resolution 1306 of
19 July 5, 2000, requires the United States and all
20 other U.N. members to take the necessary measures
21 to prohibit the direct or indirect importation of all
22 rough diamonds from Sierra Leone into their terri-
23 tory that are not controlled by the Government of
24 Sierra Leone through its Certificate of Origin re-
25 gime.

1 (4) U.N. Security Council Resolution 1344 of
2 March 8, 2001, requires the United States and all
3 other U.N. members to take the necessary measures
4 to prevent the direct or indirect import of all rough
5 diamonds from Liberia, whether or not such dia-
6 monds originated in Liberia.

7 (5) Effective compliance with U.N. Security
8 Council Resolutions 1173, 1306, and 1344 is nec-
9 essary to eliminate trade in conflict diamonds.

10 (6) Although the President of the United States
11 has issued Executive Orders to implement Resolu-
12 tion 1173 and Resolution 1306, additional measures
13 are needed to ensure compliance with, and prevent
14 circumvention of, those resolutions.

15 (7) Further measures are needed to prevent
16 rough diamonds originating in other rebel-controlled
17 conflict areas from entering the global stream of
18 commerce in which legitimate diamonds are sold.

19 (8) The resolution of the United Nations Gen-
20 eral Assembly approved on December 1, 2000, pro-
21 vides important guidance on devising effective and
22 pragmatic measures to address the problem of con-
23 flict diamonds.

24 (9) Since legitimate diamond trade is of great
25 economic importance to developing countries in Afri-

1 ca, no law should be enacted, nor regulation or other
2 measure implemented, that would impede legitimate
3 diamond trade or diminish confidence in the integ-
4 rity of the legitimate diamond industry.

5 **SEC. 102. DEFINITIONS.**

6 (a) The term “diamond” means a natural mineral
7 consisting of essentially pure carbon crystallized in the iso-
8 metric system with a hardness of 10 on the Mohs scale,
9 a specific gravity of approximately 3.52, and a refractive
10 index of 2.42.

11 (b) The term “rough diamond” means a diamond
12 that is unworked or simply sawn, cleaved or bruted, as
13 described in Harmonized Tariff Schedule of the United
14 States subheading 7102.31.0000.

15 (c) The term “conflict diamond” means a diamond
16 that has at any time been in the possession of any person
17 belonging to or associated with armed insurgents, rebel
18 forces, or any other movement using violence against civil-
19 ians or internationally recognized governments.

20 **SEC. 103. RESTRICTIONS ON THE IMPORTATION OF DIA-**
21 **MONDS.**

22 (a) No person may enter into the customs territory
23 of the United States or aid or abet an attempt to enter
24 any diamond, including any diamond set in jewelry, that
25 has been mined in, or mined and set in, and exported di-

1 rectly from, the Republic of Sierra Leone, the Republic
2 of Angola, or the Republic of Liberia except for a diamond
3 or a diamond set in jewelry—

4 (1) the country of origin of which has been cer-
5 tified as the Republic of Sierra Leone by the inter-
6 nationally recognized government of that country, in
7 accordance with United Nations Security Council
8 Resolution 1306 of July 5, 2000; or

9 (2) the country of origin of which has been cer-
10 tified as the Republic of Angola by the internation-
11 ally recognized government of that country, in ac-
12 cordance with United Nations Security Council Res-
13 olution 1173 of June 12, 1998.

14 (b) No person may enter into the customs territory
15 of the United States or aid or abet an attempt to enter
16 any diamond directly from a country that: is subject to
17 a United Nations Security Council resolution similar to
18 those identified in subsection (a) or that is not a signatory
19 to an international agreement that establishes a certifi-
20 cation system for exports and imports of rough diamonds,
21 that has not unilaterally implemented such a system, or
22 that is not a “cooperating country” as defined in sub-
23 section (c) of section 105 of this Act.

1 **SEC. 104. PROHIBITION OF OTHER IMPORTS TO PREVENT**
2 **CIRCUMVENTION OF U.N. RESOLUTIONS.**

3 The President of the United States is authorized to
4 prohibit the importation of diamonds or diamond jewelry
5 exported from any country except for rough diamonds
6 whose country of origin has been certified as either the
7 Republic of Angola or the Republic of Sierra Leone under
8 the Certificate of Origin regimes described in section 103
9 (a) (1) or (2), if there are reasonable grounds to believe
10 that such prohibition is necessary to carry out U.N. Secu-
11 rity Council Resolution 1173, 1306, or 1344, or any other
12 Resolution banning the exportation or importation of con-
13 flict diamonds.

14 **SEC. 105. IMPLEMENTING MEASURES.**

15 (a) The Secretary of the Treasury of the United
16 States is authorized to make such rules and regulations
17 as may be necessary to carry out the provisions of this
18 Act. The public will be notified and given an opportunity
19 of at least 30 days to comment on all proposed rules and
20 regulations before they take effect.

21 (b) These regulations will provide that an importer
22 is entitled to rely on the country of origin marking that
23 is required under 19 U.S.C. § 1304. However, nothing in
24 this Act shall be construed to override an importer's duty
25 to exercise reasonable care.

1 (c) No later than six months after the date of enact-
2 ment of this Act, the Secretary of the Treasury will issue
3 a list of countries that are signatories to the international
4 agreement described in title II, have unilaterally imple-
5 mented a certification system containing the elements de-
6 scribed in subsection (b) of section 203, or are found to
7 be “cooperating” countries as defined in this subsection.
8 The Secretary of the Treasury will revise and update this
9 list as necessary. For purposes of this subsection, the Sec-
10 retary of the Treasury will find that a country is “cooper-
11 ating” if it is acting in good faith to establish and enforce
12 a unilateral certification system meeting the standards de-
13 scribed in subsection (b) of section 203 or taking action
14 to ensure that it is not facilitating trade in conflict dia-
15 monds. The Secretary of the Treasury, in consultation
16 with appropriate agencies, shall develop and publish cri-
17 teria that will be used to evaluate whether a country will
18 be deemed a cooperating country. These criteria will be
19 subject to public notice and comment before adoption in
20 final form.

21 (d) The Secretary of the Treasury may extend co-
22 operating country status for more than six months after
23 the initial designation, but shall provide to Congress an
24 explanation of the reasons for why such an extension is
25 necessary.

1 (e) The President of the United States shall ensure
2 that implementation of and compliance with title I of this
3 Act is monitored by appropriate agencies or by an inde-
4 pendent body.

5 **SEC. 106. PENALTIES FOR NONCOMPLIANCE.**

6 (a) CIVIL AND CRIMINAL PENALTIES.—Any person
7 who enters or introduces into the commerce of the United
8 States, attempts to enter or introduce, or aids or abets
9 an attempt to enter or introduce, merchandise in violation
10 of title I of this Act or the implementing regulations for
11 title I will be subject to civil and criminal penalties in ef-
12 fect under the customs laws of the United States, as set
13 forth in title 19 of the United States Code. The same ad-
14 ministrative procedures and defenses that apply under
15 title 19 of the United States Code will apply to penalties
16 that are sought to be assessed under this subsection.

17 (b) SEIZURE.—If the Customs Service has reasonable
18 cause to believe that a person has violated the provisions
19 of subsection (a) of this section and that seizure is essen-
20 tial to prevent the introduction of merchandise into the
21 customs territory of the United States whose importation
22 is prohibited by title I of this Act, then such merchandise
23 may be seized. Within a reasonable time after any such
24 seizure is made, the Customs Service will issue to the per-
25 son concerned a written statement containing the reasons

1 for the seizure. A person may seek relief from seizure
 2 under the procedures and standards prescribed in 19
 3 U.S.C. § 1618 and the Customs Service regulations that
 4 implement that provision.

5 (c) COURT OF INTERNATIONAL TRADE PRO-
 6 CEEDINGS.—

7 (1) JURISDICTION.—Section 1582 of title 28,
 8 United States Code, is amended by amending para-
 9 graph (1) to read as follows:

10 “(1) to recover a civil penalty under section
 11 592, 593A, 641(b)(6), 641(d)(2)(A), 704(i)(2), or
 12 734(i)(2) of the Tariff Act of 1930.”.

13 (2) STANDARD OF REVIEW.—Notwithstanding
 14 any other provision of law, in any proceeding com-
 15 menced by the United States in the Court of Inter-
 16 national Trade for the recovery of any monetary
 17 penalty under this section, all issues, including the
 18 amount of any penalty, shall be tried de novo.

19 (d) PROCEEDS FROM FINES AND SEIZED GOODS.—
 20 The proceeds derived from penalties and seizures under
 21 title I of this Act will, in addition to amounts otherwise
 22 available for such purposes, be available only for programs
 23 to assist the victims of conflicts involving illicitly traded
 24 diamonds.

1 **SEC. 107. REPORT TO CONGRESS.**

2 The President of the United States will report to
3 Congress no later than 180 days after enactment of this
4 Act and annually thereafter on the implementing meas-
5 ures taken to carry out the provisions of this title and
6 their effectiveness in stopping imports of conflict dia-
7 monds into the United States.

8 **TITLE II—NEGOTIATION OF AN**
9 **INTERNATIONAL AGREEMENT**
10 **TO ELIMINATE TRADE IN**
11 **CONFLICT DIAMONDS**

12 **SEC. 201. FINDINGS.**

13 The Congress finds that:

14 (1) The most effective and desirable means of
15 eliminating international trade in conflict diamonds
16 is through international cooperative efforts involving
17 governments, the private sector, civil society, and ap-
18 propriate international organizations.

19 (2) The initiatives of the world diamond indus-
20 try, as reflected in the Resolution of the World Fed-
21 eration of Diamond Bourses and the International
22 Diamond Manufacturers Association in Antwerp on
23 July 19, 2000, as well as the efforts of the South
24 African-led Working Group on African Diamonds
25 and the World Diamond Council in developing pro-
26 posals for a global certification system for rough dia-

1 monds, are important efforts at international co-
2 operation and may provide effective mechanisms
3 that could be incorporated in an international agree-
4 ment to eliminate trade in conflict diamonds.

5 (3) Eliminating imports of rough diamonds
6 from countries where conflict diamonds are mined,
7 transshipped, or subsequently shipped into countries
8 where cutting and polishing occur is the most effec-
9 tive way to eliminate trade in conflict diamonds.

10 **SEC. 202. SENSE OF CONGRESS—NEGOTIATION OF INTER-**
11 **NATIONAL AGREEMENT.**

12 It is the sense of the Congress that the President
13 should engage in negotiations on and seek to conclude an
14 international agreement to eliminate trade in conflict dia-
15 monds as soon as possible. The system implementing this
16 agreement shall be transparent and subject to independent
17 verification and monitoring. Participants in such an agree-
18 ment should include all countries that either export or im-
19 port diamonds or diamond jewelry.

20 **SEC. 203. OVERALL NEGOTIATING OBJECTIVE OF THE**
21 **UNITED STATES AND ESSENTIAL ELEMENTS**
22 **OF AN INTERNATIONAL AGREEMENT.**

23 (a) The overall negotiating objective of the United
24 States is to establish an effective global certification sys-
25 tem covering the major exporting and importing countries

1 of rough diamonds that will eliminate trade in conflict dia-
2 monds.

3 (b) The elements of an effective global certification
4 system for rough diamonds that the United States should
5 seek in its negotiations are as follows:

6 (1) Rough diamonds, when exported from the
7 country in which they were extracted, must be sealed
8 in a secure, transparent container or bag by appro-
9 priate government officials of that country.

10 (2) The sealed container described in paragraph
11 (1) must include a fully visible government docu-
12 ment certifying the country of extraction and record-
13 ing a unique export registration number and the
14 total carat weight of the rough diamonds enclosed.

15 (3) A database containing information de-
16 scribed in paragraph (2) must be established for
17 rough diamond exports in each exporting country,
18 including countries engaged in the re-export of
19 rough diamonds.

20 (4) No country may allow importation of rough
21 diamonds unless they are sealed in a secure, trans-
22 parent container that includes a fully visible docu-
23 ment that states a unique export registration num-
24 ber for such container and the total carat weight of
25 the rough diamonds enclosed. The legitimacy of such

1 document must be verified by electronic or other re-
2 liable means with the database maintained in the
3 country of export.

4 (5) Provisions shall be made for physical in-
5 spection of sealed containers of rough diamonds by
6 appropriate authorities.

7 (6) Diamonds may be freely imported and ex-
8 ported from a country that implements and enforces
9 a rough diamond certification system that contains
10 the elements specified in paragraphs (1) through
11 (5), or a system that is its functional equivalent,
12 provided that the country of extraction need only be
13 specified when rough diamonds are exported from
14 such country and need not be specified when rough
15 diamonds are exported from a country that imple-
16 ments and enforces such a rough diamond certifi-
17 cation system.

18 **SEC. 204. CONSULTATIONS WITH CONGRESS.**

19 The President of the United States shall consult peri-
20 odically with Congress in developing and negotiating pro-
21 posals for an international agreement as described in sec-
22 tions 202 and 203.

23 **SEC. 205. REPORT TO CONGRESS.**

24 The President of the United States will provide a
25 written report to Congress no later than 180 days after

1 enactment of this Act and annually thereafter on the
 2 progress made towards concluding an international agree-
 3 ment and the progress of the signatories to that agree-
 4 ment in implementing it, including which countries are not
 5 implementing it and the effects of their actions on trade
 6 in conflict diamonds. Each report shall also describe any
 7 technological advances that permit determining a dia-
 8 mond's origin, marking a diamond, and tracking it.

9 **SEC. 206. IMPLEMENTING LEGISLATION.**

10 The President of the United States will submit to
 11 Congress a draft bill implementing the provisions of any
 12 agreement that is negotiated no later than 60 calendar
 13 days after entering into that agreement.

14 **SEC. 207. EFFECTIVE DATE.**

15 Title I will apply with respect to articles entered, or
 16 withdrawn from warehouse for consumption, six months
 17 after the date of enactment of this Act. Title II will take
 18 effect on the date of enactment of this Act.

19 **TITLE III—OTHER PROVISIONS**

20 **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

21 Such sums as may be necessary are hereby author-
 22 ized to be appropriated to implement the provisions of this
 23 Act, including such sums as are necessary to assist the
 24 governments of Sierra Leone and Angola to establish and
 25 maintain a diamond certification system.

1 **SEC. 302. SEVERABILITY.**

2 If any provision of this Act or the application of such
3 provision to any person or circumstance is held invalid,
4 it is the intent of Congress that the remainder of this Act
5 and application of such provision to other persons or cir-
6 cumstances will not be affected thereby.

7 **SEC. 303. GAO REPORT.**

8 The General Accounting Office shall report to Con-
9 gress on the effectiveness of this Act no later than three
10 years after the date of enactment of this Act.

