

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, cleaved, or bruted and classifiable under subheading 7102.10, 7102.21, or 7102.31 of the Harmonized Tariff Schedule of the United States.

### (10) United States

The term “United States”, when used in the geographic sense, means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

### (11) United States person

The term “United States person” means—

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

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

(C) any person in the United States.

(Pub. L. 108–19, § 3, Apr. 25, 2003, 117 Stat. 632.)

#### REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in par. (9), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

#### CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

## § 3903. Measures for the importation and exportation of rough diamonds

### (a) Prohibition

The President shall prohibit the importation into, or exportation from, the United States of any rough diamond, from whatever source, that has not been controlled through the Kimberley Process Certification Scheme.

### (b) Waiver

The President may waive the requirements set forth in subsection (a) with respect to a particular country for periods of not more than 1 year each, if, with respect to each such waiver—

(1) the President determines and reports to the appropriate congressional committees that such country is taking effective steps to

implement the Kimberley Process Certification Scheme; or

(2) the President determines that the waiver is in the national interests of the United States, and reports such determination to the appropriate congressional committees, together with the reasons therefor.

(Pub. L. 108–19, § 4, Apr. 25, 2003, 117 Stat. 633.)

#### DELEGATION OF FUNCTIONS

For assignment of functions of President under subsec. (b) of this section, see section 2 of Ex. Ord. No. 13312, July 29, 2003, 68 F.R. 45151, set out as a note under section 3901 of this title.

### § 3904. Regulatory and other authority

#### (a) In general

The President is authorized to and shall as necessary issue such proclamations, regulations, licenses, and orders, and conduct such investigations, as may be necessary to carry out this chapter.

#### (b) Recordkeeping

Any United States person seeking to export from or import into the United States any rough diamonds shall keep a full record of, in the form of reports or otherwise, complete information relating to any act or transaction to which any prohibition imposed under section 3903(a) of this title applies. The President may require such person to furnish such information under oath, including the production of books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

#### (c) Oversight

The President shall require the appropriate Government agency to conduct annual reviews of the standards, practices, and procedures of any entity in the United States that issues Kimberley Process Certificates for the exportation from the United States of rough diamonds to determine whether such standards, practices, and procedures are in accordance with the Kimberley Process Certification Scheme. The President shall transmit to the appropriate congressional committees a report on each annual review under this subsection.

(Pub. L. 108–19, § 5, Apr. 25, 2003, 117 Stat. 634.)

#### DELEGATION OF FUNCTIONS

For assignment of functions of President under this section, see section 2 of Ex. Ord. No. 13312, July 29, 2003, 68 F.R. 45151, set out as a note under section 3901 of this title.

### § 3905. Importing and exporting authorities

#### (a) In the United States

For purposes of this chapter—

(1) the importing authority shall be the United States Bureau of Customs and Border Protection or, in the case of a territory or possession of the United States with its own customs administration, analogous officials; and

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

#### (b) Of other countries

The President shall publish in the Federal Register a list of all Participants, and all ex-

porting authorities and importing authorities of Participants. The President shall update the list as necessary.

(Pub. L. 108–19, § 6, Apr. 25, 2003, 117 Stat. 634.)

#### DELEGATION OF FUNCTIONS

For assignment of functions of President under subsec. (b) of this section, see section 2 of Ex. Ord. No. 13312, July 29, 2003, 68 F.R. 45151, set out as a note under section 3901 of this title.

### § 3906. Statement of policy

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

(Pub. L. 108–19, § 7, Apr. 25, 2003, 117 Stat. 634.)

### § 3907. Enforcement

#### (a) In general

In addition to the enforcement provisions set forth in subsection (b)—

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

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

#### (b) Import violations

Those customs laws of the United States, both civil and criminal, including those laws relating to seizure and forfeiture, that apply to articles imported in violation of such laws shall apply with respect to rough diamonds imported in violation of this chapter.

#### (c) Authority to enforce

The United States Bureau of Customs and Border Protection and the United States Bureau of Immigration and Customs Enforcement are authorized, as appropriate, to enforce the provisions of subsection (a) and to enforce the laws and regulations governing exports of rough diamonds, including with respect to the validation of the Kimberley Process Certificate by the exporting authority.

(Pub. L. 108–19, § 8, Apr. 25, 2003, 117 Stat. 634.)

### § 3908. Technical assistance

The President may direct the appropriate agencies of the United States Government to make available technical assistance to countries seeking to implement the Kimberley Process Certification Scheme.

(Pub. L. 108–19, § 9, Apr. 25, 2003, 117 Stat. 635.)

### § 3909. Sense of Congress

#### (a) Ongoing process

It is the sense of the Congress that the Kimberley Process Certification Scheme, officially