

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. 287e), 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, cleaved, or bruted and classifiable under sub-heading 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,