

Week Ending Friday, May 2, 2003

**Statement on Signing the Clean
Diamond Trade Act**

April 25, 2003

I have today signed into law H.R. 1584, the “Clean Diamond Trade Act.” The Act enables this Nation to implement procedures developed by more than 50 countries to exclude rough “conflict diamonds” from international trade, while promoting legitimate trade. Conflict diamonds have been used by rebel groups in Africa to finance their atrocities committed on civilian populations and their insurrections against internationally recognized governments. The United States has played a key role over the past 2 years in forging an international consensus to curb such damaging trade and has therefore strongly supported the “Kimberley Process.” Diamonds also are critical to the economic growth and development of African and other countries, so preserving their legitimate trade is an important foreign policy objective.

This Act directs the President to implement regulations to carry out the Kimberley Process Certification Scheme (KPCS). Although under this Act I have discretion to issue regulations consistent with future changes to the KPCS, under the Constitution, the President cannot be bound to accept or follow changes that might be made to the KPCS at some future date absent subsequent legislation. I will construe this Act accordingly.

Section 15 of the Act provides that the legislation takes effect on the date the President certifies to the Congress that either of two specified events has occurred. The first event is that “an applicable waiver that has been granted by the World Trade Organization is in effect.” The second event is that “an appli-

cable 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.” Once the Act takes effect, it “shall thereafter remain in effect during those periods in which, as certified by the President to the Congress, an applicable waiver or decision” by the World Trade Organization or the United Nations Security Council, respectively, “is in effect.”

If section 15 imposed a mandatory duty on the President to certify to the Congress whether either of the two specified events has occurred and whether either remains in effect, a serious question would exist as to whether section 15 unconstitutionally delegated legislative power to international bodies. In order to avoid this constitutional question, I will construe the certification process set forth in section 15 as conferring broad discretion on the President. Specifically, I will construe section 15 as giving the President broad discretion whether to certify to the Congress that an applicable waiver or decision is in effect. Similarly, I will construe section 15 as imposing no obligation on the President to withdraw an existing certification in response to any particular event. Rather, I will construe section 15 as giving the President the discretion to determine when a certification that an applicable waiver or decision is no longer in effect is warranted.

George W. Bush

The White House,
April 25, 2003.

NOTE: H.R. 1584, approved April 25, was assigned Public Law No. 108-19. This item was not received in time for publication in the appropriate issue.