

TESTIMONY

DEPARTMENT OF THE TREASURY
OFFICE OF PUBLIC AFFAIRS

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Committee on Governmental Affairs
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Mr. Chairman, members of the Committee, thank you for inviting me to speak about the role of the Department of the Treasury and its bureau, the U.S. Customs Service, in enforcing current sanctions on diamonds, and our possible role in enforcing an international certification system for trade in rough diamonds.

The role of diamonds in conflicts in Angola and Sierra Leone has been well documented. More broadly, as a precious commodity, diamonds are often used in trafficking networks running parallel to legitimate international trade channels and offer criminals opportunities to conceal their financial and organizational relationships. Diamonds can provide a lucrative means of funding an array of transnational criminal activities. They can be used in money laundering, arms trafficking, and, potentially, international terrorism. Techniques for illicit trade in diamonds include physical concealment, mis-description, and undervaluation. Customs' recently initiated Operation GreenQuest aims to identify and investigate suspected financial or other crimes, which may utilize diamonds as a means of concealment.

Current Import Prohibitions on Conflict Diamonds

The Customs Service currently enforces prohibitions on importation of diamonds from three countries: Angola, Sierra Leone, and Liberia. These prohibitions are in place pursuant to three Executive orders that take into account United Nations Security Council Resolutions.

On September 26, 1993, the President issued Executive Order 12865, declaring a national emergency in response to military and other actions by the National Union for the Total Independence of Angola (UNITA) and imposing sanctions on UNITA. In Executive Order 13098 of August 19, 1998, the President imposed additional sanctions on UNITA including prohibiting the direct or indirect importation into the United States of all diamonds exported from Angola that are not controlled through the certificate of origin regime of the Angolan Government of Unity and National Reconciliation.

In Executive Order 13194 of January 18, 2001, the President declared a national emergency in response to the actions of the insurgent Revolutionary United Front (RUF) in Sierra Leone and prohibited the importation into the United States of rough diamonds from Sierra Leone that have not been controlled by the Government of Sierra Leone through its certificate of origin regime. The order's stated purpose was to ensure that the direct or indirect importation into the United States of rough diamonds from Sierra Leone would not contribute financial support to the RUF, whose illicit trade in conflict diamonds has fueled the civil war in Sierra Leone by funding the rebels' aggressive actions and procurement of weapons.

On May 22, 2001, the President issued Executive Order 13213 to expand the scope of the national emergency declared in Executive Order 13194 in order to respond, among other things, to the Government of Liberia's complicity in the RUF's illicit trade in conflict diamonds through Liberia. This order prohibits the direct or indirect importation into the United States of all rough diamonds from Liberia, whether or not the diamonds originated in Liberia.

The regulations for Angola can be found in 31CFR Part 590; interim final regulations for Sierra Leone and Liberia were published in the Federal Register on February 6, 2002. Customs has in all instances been enforcing the import bans as of the effective dates of the underlying Executive orders.

Customs Enforcement

Consistent with the Executive orders and implementing regulations, Customs requires that authorized imports of rough diamonds from Sierra Leone and all diamonds from Angola be accompanied by legitimate government certificates or other documents demonstrating to the satisfaction of Customs that the diamonds were legally exported from the relevant country. Under Customs regulations, importers must present appropriate documentation to Customs upon demand and have the responsibility to keep certificates of origin on file for 5 years after importation.

In addition to targeted examinations at entry, Customs uses risk management techniques as a means of identifying those imports that represent the greatest risk of non-compliance and to focus resources in those areas. This may include post-importation audits to review importers' overall trade, identify anomalies, and verify claims made at entry. In the case of diamonds, verification of claims can include verification with exporting authorities of certification validity. If any intelligence is developed internally, or obtained from outside sources, indicating certain importers are importing conflict diamonds, Customs can seize shipments or develop leads by initiating formal investigations. Customs' Strategic Investigations Division programs, such as Operation EXODUS and the newly-initiated SHIELD AMERICA program, aggressively investigate, interdict and disrupt international arms trafficking networks, and are relevant to diamonds

trade and smuggling.

There have been two recent interdictions of diamond imports based on the failure to present proper export certificates. On December 31, 2001, Customs inspectors at Baltimore-Washington International Airport seized 37 diamonds from a passenger who had arrived on an international flight. A search of the passenger's luggage revealed documents that led the officers to believe the passenger may be carrying diamonds. When the officers asked if he was carrying diamonds, the passenger removed a package from his pocket and the diamonds were detained for formal Customs entry. The Customs entry was filed, but there was no accompanying certificate from the Republic of Sierra Leone and the diamonds were seized pursuant to Executive Order 13194.

On February 4, 2002, an arriving international passenger declared \$12,350 in diamonds to Customs officers at Baltimore-Washington International Airport. Upon review of the Certificate of Origin, the Customs inspectors noticed several inconsistencies in the document that led them to believe the certificate was fraudulent. The stones and the accompanying documents are currently under detention by Customs.

Kimberley Process

In January of 2001, the United Nations General Assembly passed a resolution (55/56) which, *inter alia*, encourages member states to devise "effective and pragmatic measures to address the problem of conflict diamonds" including "the creation and implementation of a simple and workable international certification scheme for rough diamonds." Over thirty countries have engaged in discussions to develop such a scheme through the so-called Kimberley process. The Department of State has led U.S. participation.

Six international meetings on the Kimberley process were held in 2001; another meeting is scheduled to take place in Canada in March 2002 to continue work on the draft document and surrounding issues. The objective of the Kimberley certification scheme is to assist in tracking legitimate diamond trade in order to try to isolate illegal shipments and persons involved in the trade of illicit conflict diamonds, thus making their infiltration of the legitimate trade more difficult.

The Treasury Department and the Customs Service have participated in interagency and international discussions of the draft Kimberley document and have shared information with participating countries on what we believe are the most modern and effective customs analysis and interdiction techniques for imports.

The proposed Kimberley certification scheme would require that, at each point of exportation, every shipment of rough diamonds be accompanied by a certificate, identifying the shipment as made in a

manner consistent with the Kimberley procedures. The exporting country would validate such a certificate. The importing country would require possession of a valid certificate at importation.

The U.S. Customs Service would enforce any import regulations concerning Kimberley certificates as it does under the existing sanctions with respect to shipments from Sierra Leone, Angola and Liberia. In its enforcement, Customs would use modern risk-assessment techniques, intelligence, and investigations, as the most effective tools for interdicting diamonds not shipped in accordance with Kimberley procedures.

While the United States is a significant consumer of polished diamonds, it is a small importer of rough diamonds, which are primarily processed in Europe, South Africa, Israel and elsewhere. The United States accounts for only four percent of global imports of rough diamonds, but 45 percent of global imports of polished diamonds. An effective global regime for excluding conflict diamonds from legitimate trade will need to rely on effective trade monitoring mechanisms in countries of first extraction, and in primary importing countries, and on effective international cooperation to prevent smuggling. Under the Kimberley process, an attempt has been made to involve the traders and strike a balance between trader vigilance and government involvement. A system that relies strictly on government enforcement and excludes the industry -- which is the most knowledgeable about the trade -- would be far less effective.

In summary, we support the objectives of the Kimberley process, and stand ready to assist in the enforcement of import-related measures designed to address this serious issue. In addition, Treasury has actively participated in the Administration's dialogue with the House concerning H.R. 2722. We believe this bill complements the efforts of the Administration to combat trade in conflict diamonds under the Executive orders and through the Kimberley process. It would reinforce U.S. leadership on this issue, while respecting our international obligations. It also envisages enforcement in a manner consistent with Customs risk management techniques.

Thank you for the opportunity to present Treasury's views. I would be happy to answer any questions.

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