

Overview of Select Issues Relating to the Importation of Rough Diamonds



**Jewelers of America - NY Summer Show
The Javits Center - New York City
July 28, 2008**



**U.S. Customs and
Border Protection**

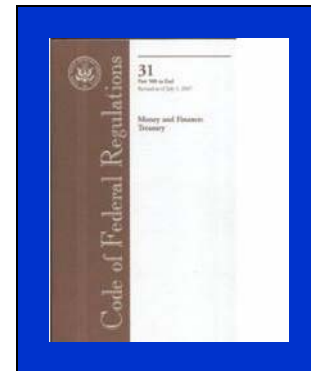
**Brian Barulich
Penalties Branch
Regulations & Rulings**

Rough Diamonds Control Regulations

- The **Office of Foreign Assets Control (OFAC)**, United States Department of the Treasury, has promulgated regulations implementing the Clean Diamond Trade Act
- These regulations are found in Title 31 of the Code the Federal Regulations (CFR) § 592.101 – 592.801
<http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>
- **U.S. Customs and Border Protection (CBP)** is the “Importing Authority”



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Rough Diamonds Control Regulations

- The importation into, or exportation from, the United States on or after July 30, 2003, of any rough diamond, from whatever source, is prohibited unless the rough diamond has been controlled through the **Kimberley Process Certification Scheme**. (31 CFR § 592.301)
- **Controlled through the Kimberley Process Certification Scheme**
(31 CFR § 592.301)
 - Participant-to-Participant Import or Export
 - Kimberley Process Certificate
 - Tamper-Resistant Container



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Rough Diamonds Control Regulations

- Amendment to regulations (See May 21, 2008 Federal Register) requires formal entry for consumption for importation of all rough diamonds into the United States regardless of value (informal entries no longer permitted)

http://www.access.gpo.gov/su_docs/fedreg/a080521c.html



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A screenshot of a U.S. Customs and Border Protection form, likely a Form 101 (Entry Summary). The form is titled "DEPARTMENT OF HOMELAND SECURITY U.S. Customs and Border Protection ENTRY SUMMARY". It contains various fields for entry information, including "ENTRY NUMBER", "DATE OF ENTRY", "PORT OF ENTRY", "COUNTRY OF ORIGIN", "COMMODITY", "QUANTITY", "VALUE", and "DUTY". The form is presented on a blue background.

Rough Diamonds Control Regulations

- **Participant-to-Participant Import or Export**
 - Non-participants include large trading partners
 - Trade in diamonds from Cote D'Ivoire is currently prohibited pursuant to UNSC Resolution 1643 (2005)
 - Venezuela withdrew from the KPCS on June 17, 2008
- **Kimberley Process Certificate**
 - Original must accompany the shipment
 - Copy submitted with CBP Form 3461



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Rough Diamonds Control Regulations

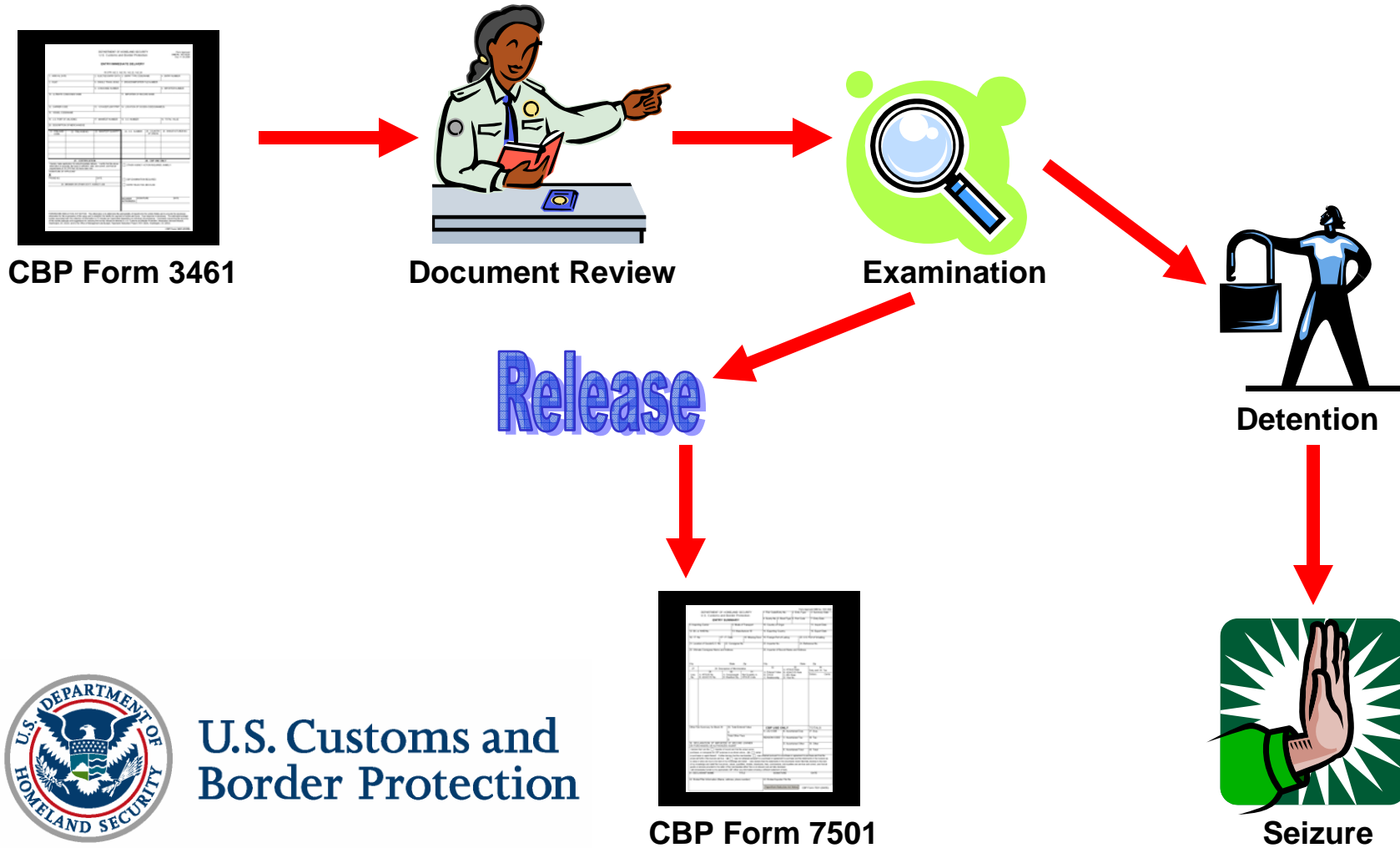
- **“Tamper-resistant container”** is defined as packaging having an indicator or barrier to entry that could reasonably be expected to provide visible evidence that tampering had occurred.
- Standard mailing and express consignment packaging alone is not considered as tamper-resistant.



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Rough Diamonds – General Entry Process into the U.S.

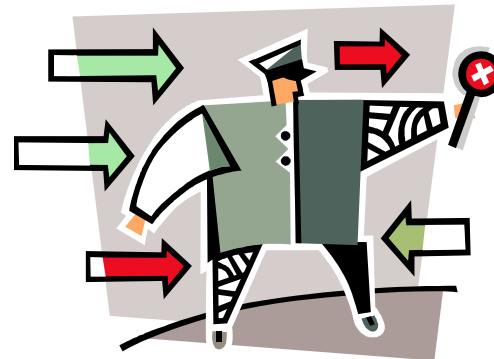


Violator Liability

- Seizure and forfeiture of shipment of rough diamonds pursuant to 19 United States Code (USC) § 1595a(c)(2)(B) and 19 USC § 1595a(c)(2)(A)
- Possible criminal penalties for willful violation
- A civil penalty not to exceed \$10,000 (19 USC § 3907(a)(1) / 19 CFR § 592.601)



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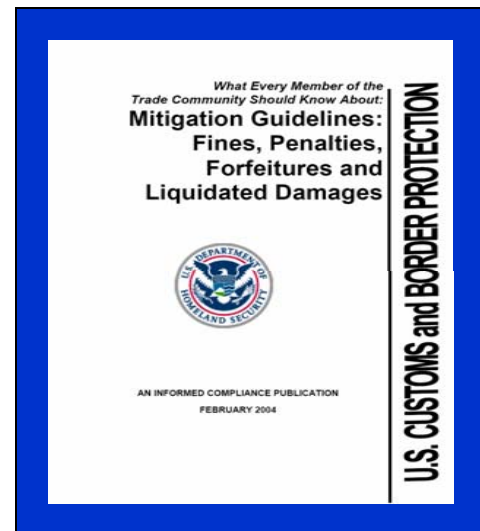
Violator Liability

- In addition to seizure, penalty assessments likely to start before end of 2008
- CBP to publish Mitigation Guidelines for violations

Will be available on CBP “Conflict Diamonds Web Page” (address on next page)



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CBP Informational Resources

- CBP's "Importing into the United States: A Guide for Commercial Importers" (CBP Publication No. 0000-0504)

<http://www.cbp.gov/linkhandler/cgov/newsroom/publications/trade/ius.ctt/ius.doc>

- CBP "Conflict Diamonds" Web Page:

http://www.cbp.gov/xp/cgov/trade/trade_programs/diamonds/



U.S. Customs and
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CBP Headquarters Points of Contact

- **Office of International Trade / Commercial Targeting & Enforcement / Enforcement Policy Branch**

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