

In the House of Representatives, U. S.,

July 15, 2008.

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 3890) entitled “An Act to amend the Burmese Freedom and Democracy Act of 2003 to impose import sanctions on Burmese gemstones, expand the number of individuals against whom the visa ban is applicable, expand the blocking of assets and other prohibited activities, and for other purposes”, with the following

HOUSE AMENDMENTS TO SENATE AMENDMENTS:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Tom Lantos Block Bur-*
3 *mese JADE (Junta’s Anti-Democratic Efforts) Act of*
4 *2008”.*

5 ***SEC. 2. FINDINGS.***

6 *Congress makes the following findings:*

7 *(1) Beginning on August 19, 2007, hundreds of*
8 *thousands of citizens of Burma, including thousands*
9 *of Buddhist monks and students, participated in*
10 *peaceful demonstrations against rapidly deteriorating*
11 *living conditions and the violent and repressive poli-*

1 *cies of the State Peace and Development Council*
2 *(SPDC), the ruling military regime in Burma—*

3 *(A) to demand the release of all political*
4 *prisoners, including 1991 Nobel Peace Prize win-*
5 *ner Aung San Suu Kyi; and*

6 *(B) to urge the regime to engage in mean-*
7 *ingful dialogue to pursue national reconciliation.*

8 *(2) The Burmese regime responded to these*
9 *peaceful protests with a violent crackdown leading to*
10 *the reported killing of approximately 200 people, in-*
11 *cluding a Japanese photojournalist, and hundreds of*
12 *injuries. Human rights groups further estimate that*
13 *over 2,000 individuals have been detained, arrested,*
14 *imprisoned, beaten, tortured, or otherwise intimidated*
15 *as part of this crackdown. Burmese military, police,*
16 *and their affiliates in the Union Solidarity Develop-*
17 *ment Association (USDA) perpetrated almost all of*
18 *these abuses. The Burmese regime continues to detain,*
19 *torture, and otherwise intimidate those individuals*
20 *whom it believes participated in or led the protests*
21 *and it has closed down or otherwise limited access to*
22 *several monasteries and temples that played key roles*
23 *in the peaceful protests.*

1 (3) *The Department of State's 2006 Country Re-*
2 *ports on Human Rights Practices found that the*
3 *SPDC—*

4 (A) *routinely restricts freedoms of speech,*
5 *press, assembly, association, religion, and move-*
6 *ment;*

7 (B) *traffics in persons;*

8 (C) *discriminates against women and eth-*
9 *nic minorities;*

10 (D) *forcibly recruits child soldiers and child*
11 *labor; and*

12 (E) *commits other serious violations of*
13 *human rights, including extrajudicial killings,*
14 *custodial deaths, disappearances, rape, torture,*
15 *abuse of prisoners and detainees, and the impris-*
16 *onment of citizens arbitrarily for political mo-*
17 *tives.*

18 (4) *Aung San Suu Kyi has been arbitrarily im-*
19 *prisoned or held under house arrest for more than 12*
20 *years.*

21 (5) *In October 2007, President Bush announced*
22 *a new Executive Order to tighten economic sanctions*
23 *against Burma and block property and travel to the*
24 *United States by certain senior leaders of the SPDC,*
25 *individuals who provide financial backing for the*

1 *SPDC, and individuals responsible for human rights*
2 *violations and impeding democracy in Burma. Addi-*
3 *tional names were added in updates done on October*
4 *19, 2007, and February 5, 2008. However, only 38*
5 *discrete individuals and 13 discrete companies have*
6 *been designated under those sanctions, once aliases*
7 *and companies with similar names were removed. By*
8 *contrast, the Australian Government identified more*
9 *than 400 individuals and entities subject to its sanc-*
10 *tions applied in the wake of the 2007 violence. The*
11 *European Union's regulations to implement sanctions*
12 *against Burma have identified more than 400 indi-*
13 *viduals among the leadership of government, the mili-*
14 *tary, and the USDA, along with nearly 1300 state*
15 *and military-run companies potentially subject to its*
16 *sanctions.*

17 *(6) The Burmese regime and its supporters fi-*
18 *nance their ongoing violations of human rights, un-*
19 *democratic policies, and military activities in part*
20 *through financial transactions, travel, and trade in-*
21 *volving the United States, including the sale of petro-*
22 *leum products, gemstones and hardwoods.*

23 *(7) In 2006, the Burmese regime earned more*
24 *than \$500 million from oil and gas projects, over*
25 *\$500 million from sale of hardwoods, and in excess of*

1 *\$300 million from the sale of rubies and jade. At least*
2 *\$500 million of the \$2.16 billion earned in 2006 from*
3 *Burma's two natural gas pipelines, one of which is 28*
4 *percent owned by a United States company, went to*
5 *the Burmese regime. The regime has earned smaller*
6 *amounts from oil and gas exploration and non-oper-*
7 *ational pipelines but United States investors are not*
8 *involved in those transactions. Industry sources esti-*
9 *mate that over \$100 million annually in Burmese ru-*
10 *bies and jade enters the United States. Burma's offi-*
11 *cial statistics report that Burma exported \$500 mil-*
12 *lion in hardwoods in 2006 but NGOs estimate the*
13 *true figure to exceed \$900 million. Reliable statistics*
14 *on the amount of hardwoods imported into the United*
15 *States from Burma in the form of finished products*
16 *are not available, in part due to widespread illegal*
17 *logging and smuggling.*

18 *(8) The SPDC seeks to evade the sanctions im-*
19 *posed in the Burmese Freedom and Democracy Act of*
20 *2003. Millions of dollars in gemstones that are ex-*
21 *ported from Burma ultimately enter the United*
22 *States, but the Burmese regime attempts to conceal*
23 *the origin of the gemstones in an effort to evade sanc-*
24 *tions. For example, according to gem industry ex-*
25 *perts, over 90 percent of the world's ruby supply*

1 *originates in Burma but only 3 percent of the rubies*
2 *entering the United States are claimed to be of Bur-*
3 *mese origin. The value of Burmese gemstones is pre-*
4 *dominantly based on their original quality and geo-*
5 *logical origin, rather than the labor involved in cut-*
6 *ting and polishing the gemstones.*

7 (9) *According to hardwood industry experts,*
8 *Burma is home to approximately 60 percent of the*
9 *world's native teak reserves. More than 1/4 of the*
10 *world's internationally traded teak originates from*
11 *Burma, and hardwood sales, mainly of teak, represent*
12 *more than 11 percent of Burma's official foreign ex-*
13 *change earnings.*

14 (10) *The SPDC owns a majority stake in vir-*
15 *tually all enterprises responsible for the extraction*
16 *and trade of Burmese natural resources, including all*
17 *mining operations, the Myanmar Timber Enterprise,*
18 *the Myanmar Gems Enterprise, the Myanmar Pearl*
19 *Enterprise, and the Myanmar Oil and Gas Enter-*
20 *prise. Virtually all profits from these enterprises en-*
21 *rich the SPDC.*

22 (11) *On October 11, 2007, the United Nations*
23 *Security Council, with the consent of the People's Re-*
24 *public of China, issued a statement condemning the*
25 *violence in Burma, urging the release of all political*

1 *prisoners, and calling on the SPDC to enter into a*
2 *United Nations-mediated dialogue with its political*
3 *opposition.*

4 *(12) The United Nations special envoy Ibrahim*
5 *Gambari traveled to Burma from September 29,*
6 *2007, through October 2, 2007, holding meetings with*
7 *SPDC leader General Than Shwe and democracy ad-*
8 *vocate Aung San Suu Kyi in an effort to promote*
9 *dialogue between the SPDC and democracy advocates.*

10 *(13) The leaders of the SPDC will have a greater*
11 *incentive to cooperate with diplomatic efforts by the*
12 *United Nations, the Association of Southeast Asian*
13 *Nations, and the People's Republic of China if they*
14 *come under targeted economic pressure that denies*
15 *them access to personal wealth and sources of revenue.*

16 *(14) On the night of May 2, 2008, through the*
17 *morning of May 3, 2008, tropical cyclone Nargis*
18 *struck the coast of Burma, resulting in the deaths of*
19 *tens of thousands of Burmese.*

20 *(15) The response to the cyclone by Burma's*
21 *military leaders illustrates their fundamental lack of*
22 *concern for the welfare of the Burmese people. The re-*
23 *gime did little to warn citizens of the cyclone, did not*
24 *provide adequate humanitarian assistance to address*
25 *basic needs and prevent loss of life, and continues to*

1 *fail to provide life-protecting and life-sustaining serv-*
2 *ices to its people.*

3 (16) *The international community responded*
4 *immediately to the cyclone and attempted to provide*
5 *humanitarian assistance. More than 30 disaster as-*
6 *essment teams from 18 different nations and the*
7 *United Nations arrived in the region, but the Bur-*
8 *mese regime denied them permission to enter the*
9 *country. Eventually visas were granted to aid work-*
10 *ers, but the regime continues to severely limit their*
11 *ability to provide assistance in the affected areas.*

12 (17) *Despite the devastation caused by Cyclone*
13 *Nargis, the junta went ahead with its referendum on*
14 *a constitution drafted by an illegitimate assembly,*
15 *conducting voting in unaffected areas on May 10,*
16 *2008, and in portions of the affected Irrawaddy re-*
17 *gion and Rangoon on May 26, 2008.*

18 **SEC. 3. DEFINITIONS.**

19 *In this Act:*

20 (1) *ACCOUNT; CORRESPONDENT ACCOUNT; PAY-*
21 *ABLE-THROUGH ACCOUNT.—The terms “account”,*
22 *“correspondent account”, and “payable-through ac-*
23 *count” have the meanings given the terms in section*
24 *5318A(e)(1) of title 31, United States Code.*

1 (2) *APPROPRIATE CONGRESSIONAL COMMIT-*
2 *TEES.*—*The term “appropriate congressional commit-*
3 *tees” means—*

4 (A) *the Committee on Foreign Relations of*
5 *the Senate;*

6 (B) *the Committee on Finance of the Sen-*
7 *ate;*

8 (C) *the Committee on Foreign Affairs of the*
9 *House of Representatives; and*

10 (D) *the Committee on Ways and Means of*
11 *the House of Representatives.*

12 (3) *ASEAN.*—*The term “ASEAN” means the*
13 *Association of Southeast Asian Nations.*

14 (4) *PERSON.*—*The term “person” means—*

15 (A) *an individual, corporation, company,*
16 *business association, partnership, society, trust,*
17 *any other nongovernmental entity, organization,*
18 *or group; and*

19 (B) *any successor, subunit, or subsidiary of*
20 *any person described in subparagraph (A).*

21 (5) *SPDC.*—*The term “SPDC” means the State*
22 *Peace and Development Council, the ruling military*
23 *regime in Burma.*

24 (6) *UNITED STATES PERSON.*—*The term “United*
25 *States person” means any United States citizen, per-*

1 *manent resident alien, juridical person organized*
2 *under the laws of the United States (including foreign*
3 *branches), or any person in the United States.*

4 **SEC. 4. STATEMENT OF POLICY.**

5 *It is the policy of the United States to—*

6 *(1) condemn the continued repression carried out*
7 *by the SPDC;*

8 *(2) work with the international community, es-*
9 *pecially the People's Republic of China, India, Thai-*
10 *land, and ASEAN, to foster support for the legitimate*
11 *democratic aspirations of the people of Burma and to*
12 *coordinate efforts to impose sanctions on those di-*
13 *rectly responsible for human rights abuses in Burma;*

14 *(3) provide all appropriate support and assist-*
15 *ance to aid a peaceful transition to constitutional de-*
16 *mocracy in Burma;*

17 *(4) support international efforts to alleviate the*
18 *suffering of Burmese refugees and address the urgent*
19 *humanitarian needs of the Burmese people; and*

20 *(5) identify individuals responsible for the re-*
21 *pression of peaceful political activity in Burma and*
22 *hold them accountable for their actions.*

23 **SEC. 5. SANCTIONS.**

24 *(a) VISA BAN.—*

1 (1) *IN GENERAL.*—*The following persons shall be*
2 *ineligible for a visa to travel to the United States:*

3 (A) *Former and present leaders of the*
4 *SPDC, the Burmese military, or the USDA.*

5 (B) *Officials of the SPDC, the Burmese*
6 *military, or the USDA involved in the repression*
7 *of peaceful political activity or in other gross*
8 *violations of human rights in Burma or in the*
9 *commission of other human rights abuses, in-*
10 *cluding any current or former officials of the se-*
11 *curity services and judicial institutions of the*
12 *SPDC.*

13 (C) *Any other Burmese persons who provide*
14 *substantial economic and political support for*
15 *the SPDC, the Burmese military, or the USDA.*

16 (D) *The immediate family members of any*
17 *person described in subparagraphs (A) through*
18 *(C).*

19 (2) *WAIVER.*—*The President may waive the visa*
20 *ban described in paragraph (1) only if the President*
21 *determines and certifies in writing to Congress that*
22 *travel by the person seeking such a waiver is in the*
23 *national interests of the United States.*

24 (3) *RULE OF CONSTRUCTION.*—*Nothing in this*
25 *subsection shall be construed to conflict with the pro-*

1 *visions of section 694 of the Consolidated Appropriations Act, 2008 (Public Law 110–161), nor shall this*
2 *subsection be construed to make ineligible for a visa*
3 *members of ethnic groups in Burma now or pre-*
4 *viously opposed to the regime who were forced to pro-*
5 *vide labor or other support to the Burmese military*
6 *and who are otherwise eligible for admission into the*
7 *United States.*

8
9 *(b) FINANCIAL SANCTIONS.—*

10 *(1) BLOCKED PROPERTY.—No property or inter-*
11 *est in property belonging to a person described in*
12 *subsection (a)(1) may be transferred, paid, exported,*
13 *withdrawn, or otherwise dealt with if—*

14 *(A) the property is located in the United*
15 *States or within the possession or control of a*
16 *United States person, including the overseas*
17 *branch of a United States person; or*

18 *(B) the property comes into the possession*
19 *or control of a United States person after the*
20 *date of the enactment of this Act.*

21 *(2) FINANCIAL TRANSACTIONS.—Except with re-*
22 *spect to transactions authorized under Executive Or-*
23 *ders 13047 (May 20, 1997) and 13310 (July 28,*
24 *2003), no United States person may engage in a fi-*

1 *nancial transaction with the SPDC or with a person*
2 *described in subsection (a)(1).*

3 (3) *PROHIBITED ACTIVITIES.—Activities prohib-*
4 *ited by reason of the blocking of property and finan-*
5 *cial transactions under this subsection shall include*
6 *the following:*

7 (A) *Payments or transfers of any property,*
8 *or any transactions involving the transfer of*
9 *anything of economic value by any United*
10 *States person, including any United States fi-*
11 *nancial institution and any branch or office of*
12 *such financial institution that is located outside*
13 *the United States, to the SPDC or to an indi-*
14 *vidual described in subsection (a)(1).*

15 (B) *The export or reexport directly or indi-*
16 *rectly, of any goods, technology, or services by a*
17 *United States person to the SPDC, to an indi-*
18 *vidual described in subsection (a)(1) or to any*
19 *entity owned, controlled, or operated by the*
20 *SPDC or by an individual described in such*
21 *subsection.*

22 (c) *AUTHORITY FOR ADDITIONAL BANKING SANC-*
23 *TIONS.—*

24 (1) *IN GENERAL.—The Secretary of the Treas-*
25 *ury, in consultation with the Secretary of State, the*

1 *Attorney General of the United States, and the Chair-*
2 *man of the Board of Governors of the Federal Reserve*
3 *System, may prohibit or impose conditions on the*
4 *opening or maintaining in the United States of a cor-*
5 *respondent account or payable-through account by*
6 *any financial institution (as that term is defined in*
7 *section 5312 of title 31, United States Code) or finan-*
8 *cial agency that is organized under the laws of a*
9 *State, territory, or possession of the United States, for*
10 *or on behalf of a foreign banking institution, if the*
11 *Secretary determines that the account might be*
12 *used—*

13 *(A) by a foreign banking institution that*
14 *holds property or an interest in property belong-*
15 *ing to the SPDC or a person described in sub-*
16 *section (a)(1); or*

17 *(B) to conduct a transaction on behalf of*
18 *the SPDC or a person described in subsection*
19 *(a)(1).*

20 *(2) AUTHORITY TO DEFINE TERMS.—The Sec-*
21 *retary of the Treasury may, by regulation, further de-*
22 *fine the terms used in paragraph (1) for purposes of*
23 *this section, as the Secretary considers appropriate.*

24 *(d) LIST OF SANCTIONED OFFICIALS.—*

1 (1) *IN GENERAL.*—Not later than 120 days after
2 the date of the enactment of this Act, the President
3 shall transmit to the appropriate congressional com-
4 mittees a list of—

5 (A) *former and present leaders of the*
6 *SPDC, the Burmese military, and the USDA;*

7 (B) *officials of the SPDC, the Burmese*
8 *military, or the USDA involved in the repression*
9 *of peaceful political activity in Burma or in the*
10 *commission of other human rights abuses, in-*
11 *cluding any current or former officials of the se-*
12 *curity services and judicial institutions of the*
13 *SPDC;*

14 (C) *any other Burmese persons or entities*
15 *who provide substantial economic and political*
16 *support for the SPDC, the Burmese military, or*
17 *the USDA; and*

18 (D) *the immediate family members of any*
19 *person described in subparagraphs (A) through*
20 *(C) whom the President determines effectively*
21 *controls property in the United States or has*
22 *benefitted from a financial transaction with any*
23 *United States person.*

24 (2) *CONSIDERATION OF OTHER DATA.*—In pre-
25 paring the list required under paragraph (1), the

1 *President shall consider the data already obtained by*
2 *other countries and entities that apply sanctions*
3 *against Burma, such as the Australian Government*
4 *and the European Union.*

5 (3) *UPDATES.*—*The President shall transmit to*
6 *the appropriate congressional committees updated*
7 *lists of the persons described in paragraph (1) as new*
8 *information becomes available.*

9 (4) *IDENTIFICATION OF INFORMATION.*—*The Sec-*
10 *retary of State and the Secretary of the Treasury*
11 *shall devote sufficient resources to the identification of*
12 *information concerning potential persons to be sanc-*
13 *tioned to carry out the purposes described in this Act.*

14 (e) *RULE OF CONSTRUCTION.*—*Nothing in this section*
15 *may be construed to prohibit any contract or other finan-*
16 *cial transaction with any nongovernmental humanitarian*
17 *organization in Burma.*

18 (f) *EXCEPTIONS.*—

19 (1) *IN GENERAL.*—*The prohibitions and restric-*
20 *tions described in subsections (b) and (c) shall not*
21 *apply to medicine, medical equipment or supplies,*
22 *food or feed, or any other form of humanitarian as-*
23 *sistance provided to Burma.*

24 (2) *REGULATORY EXCEPTIONS.*—*For the fol-*
25 *lowing purposes, the Secretary of State may, by regu-*

1 *lation, authorize exceptions to the prohibition and re-*
2 *strictions described in subsection (a), and the Sec-*
3 *retary of the Treasury may, by regulation, authorize*
4 *exceptions to the prohibitions and restrictions de-*
5 *scribed in subsections (b) and (c)—*

6 *(A) to permit the United States and Burma*
7 *to operate their diplomatic missions, and to per-*
8 *mit the United States to conduct other official*
9 *United States Government business in Burma;*

10 *(B) to permit United States citizens to visit*
11 *Burma; and*

12 *(C) to permit the United States to comply*
13 *with the United Nations Headquarters Agree-*
14 *ment and other applicable international agree-*
15 *ments.*

16 *(g) PENALTIES.—Any person who violates any prohi-*
17 *bition or restriction imposed pursuant to subsection (b) or*
18 *(c) shall be subject to the penalties under section 6 of the*
19 *International Emergency Economic Powers Act (50 U.S.C.*
20 *1705) to the same extent as for a violation under that Act.*

21 *(h) TERMINATION OF SANCTIONS.—The sanctions im-*
22 *posed under subsection (a), (b), or (c) shall apply until the*
23 *President determines and certifies to the appropriate con-*
24 *gressional committees that the SPDC has—*

1 **“SEC. 3A. PROHIBITION ON IMPORTATION OF JADEITE AND**
2 **RUBIES FROM BURMA AND ARTICLES OF JEW-**
3 **ELRY CONTAINING JADEITE OR RUBIES FROM**
4 **BURMA.**

5 “(a) *DEFINITIONS.*—*In this section:*

6 “(1) *APPROPRIATE CONGRESSIONAL COMMIT-*
7 *TEES.*—*The term ‘appropriate congressional commit-*
8 *tees’ means—*

9 “(A) *the Committee on Ways and Means*
10 *and the Committee on Foreign Affairs of the*
11 *House of Representatives; and*

12 “(B) *the Committee on Finance and the*
13 *Committee on Foreign Relations of the Senate.*

14 “(2) *BURMESE COVERED ARTICLE.*—*The term*
15 *‘Burmese covered article’ means—*

16 “(A) *jadeite mined or extracted from*
17 *Burma;*

18 “(B) *rubies mined or extracted from*
19 *Burma; or*

20 “(C) *articles of jewelry containing jadeite*
21 *described in subparagraph (A) or rubies de-*
22 *scribed in subparagraph (B).*

23 “(3) *NON-BURMESE COVERED ARTICLE.*—*The*
24 *term ‘non-Burmese covered article’ means—*

25 “(A) *jadeite mined or extracted from a*
26 *country other than Burma;*

1 “(B) rubies mined or extracted from a coun-
2 try other than Burma; or

3 “(C) articles of jewelry containing jadeite
4 described in subparagraph (A) or rubies de-
5 scribed in subparagraph (B).

6 “(4) JADEITE; RUBIES; ARTICLES OF JEWELRY
7 CONTAINING JADEITE OR RUBIES.—

8 “(A) JADEITE.—The term ‘jadeite’ means
9 any jadeite classifiable under heading 7103 of
10 the Harmonized Tariff Schedule of the United
11 States (in this paragraph referred to as the
12 ‘HTS’).

13 “(B) RUBIES.—The term ‘rubies’ means
14 any rubies classifiable under heading 7103 of the
15 HTS.

16 “(C) ARTICLES OF JEWELRY CONTAINING
17 JADEITE OR RUBIES.—The term ‘articles of jew-
18 elry containing jadeite or rubies’ means—

19 “(i) any article of jewelry classifiable
20 under heading 7113 of the HTS that con-
21 tains jadeite or rubies; or

22 “(ii) any article of jadeite or rubies
23 classifiable under heading 7116 of the HTS.

24 “(5) UNITED STATES.—The term ‘United States’,
25 when used in the geographic sense, means the several

1 *States, the District of Columbia, and any common-*
2 *wealth, territory, or possession of the United States.*

3 “(b) *PROHIBITION ON IMPORTATION OF BURMESE*
4 *COVERED ARTICLES.*—

5 “(1) *IN GENERAL.*—*Notwithstanding any other*
6 *provision of law, until such time as the President de-*
7 *termines and certifies to the appropriate congres-*
8 *sional committees that Burma has met the conditions*
9 *described in section 3(a)(3), beginning 60 days after*
10 *the date of the enactment of the Tom Lantos Block*
11 *Burmese JADE (Junta’s Anti-Democratic Efforts)*
12 *Act of 2008, the President shall prohibit the importa-*
13 *tion into the United States of any Burmese covered*
14 *article.*

15 “(2) *REGULATORY AUTHORITY.*—*The President*
16 *is authorized to, and shall as necessary, issue such*
17 *proclamations, regulations, licenses, and orders, and*
18 *conduct such investigations, as may be necessary to*
19 *implement the prohibition under paragraph (1).*

20 “(3) *OTHER ACTIONS.*—*Beginning on the date of*
21 *the enactment of this Act, the President shall take all*
22 *appropriate actions to seek the following:*

23 “(A) *The issuance of a draft waiver decision*
24 *by the Council for Trade in Goods of the World*
25 *Trade Organization granting a waiver of the ap-*

1 *plicable obligations of the United States under*
2 *the World Trade Organization with respect to*
3 *the provisions of this section and any measures*
4 *taken to implement this section.*

5 *“(B) The adoption of a resolution by the*
6 *United Nations General Assembly expressing the*
7 *need to address trade in Burmese covered articles*
8 *and calling for the creation and implementation*
9 *of a workable certification scheme for non-Bur-*
10 *mese covered articles to prevent the trade in Bur-*
11 *mese covered articles.*

12 *“(c) REQUIREMENTS FOR IMPORTATION OF NON-BUR-*
13 *MESE COVERED ARTICLES.—*

14 *“(1) IN GENERAL.—Except as provided in para-*
15 *graph (2), until such time as the President determines*
16 *and certifies to the appropriate congressional commit-*
17 *tees that Burma has met the conditions described in*
18 *section 3(a)(3), beginning 60 days after the date of*
19 *the enactment of the Tom Lantos Block Burmese*
20 *JADE (Junta’s Anti-Democratic Efforts) Act of 2008,*
21 *the President shall require as a condition for the im-*
22 *portation into the United States of any non-Burmese*
23 *covered article that—*

24 *“(A) the exporter of the non-Burmese cov-*
25 *ered article has implemented measures that have*

1 *substantially the same effect and achieve the*
2 *same goals as the measures described in clauses*
3 *(i) through (iv) of paragraph (2)(B) (or their*
4 *functional equivalent) to prevent the trade in*
5 *Burmese covered articles; and*

6 *“(B) the importer of the non-Burmese cov-*
7 *ered article agrees—*

8 *“(i) to maintain a full record of, in the*
9 *form of reports or otherwise, complete infor-*
10 *mation relating to any act or transaction*
11 *related to the purchase, manufacture, or*
12 *shipment of the non-Burmese covered article*
13 *for a period of not less than 5 years from*
14 *the date of entry of the non-Burmese covered*
15 *article; and*

16 *“(ii) to provide the information de-*
17 *scribed in clause (i) within the custody or*
18 *control of such person to the relevant United*
19 *States authorities upon request.*

20 *“(2) EXCEPTION.—*

21 *“(A) IN GENERAL.—The President may*
22 *waive the requirements of paragraph (1) with re-*
23 *spect to the importation of non-Burmese covered*
24 *articles from any country with respect to which*
25 *the President determines and certifies to the ap-*

1 *appropriate congressional committees has imple-*
2 *mented the measures described in subparagraph*
3 *(B) (or their functional equivalent) to prevent*
4 *the trade in Burmese covered articles.*

5 “(B) *MEASURES DESCRIBED.*—*The meas-*
6 *ures referred to in subparagraph (A) are the fol-*
7 *lowing:*

8 “(i) *With respect to exportation from*
9 *the country of jadeite or rubies in rough*
10 *form, a system of verifiable controls on the*
11 *jadeite or rubies from mine to exportation*
12 *demonstrating that the jadeite or rubies*
13 *were not mined or extracted from Burma,*
14 *and accompanied by officially-validated*
15 *documentation certifying the country from*
16 *which the jadeite or rubies were mined or*
17 *extracted, total carat weight, and value of*
18 *the jadeite or rubies.*

19 “(ii) *With respect to exportation from*
20 *the country of finished jadeite or polished*
21 *rubies, a system of verifiable controls on the*
22 *jadeite or rubies from mine to the place of*
23 *final finishing of the jadeite or rubies dem-*
24 *onstrating that the jadeite or rubies were*
25 *not mined or extracted from Burma, and*

1 *accompanied by officially-validated docu-*
2 *mentation certifying the country from*
3 *which the jadeite or rubies were mined or*
4 *extracted.*

5 “(iii) *With respect to exportation from*
6 *the country of articles of jewelry containing*
7 *jadeite or rubies, a system of verifiable con-*
8 *trols on the jadeite or rubies from mine to*
9 *the place of final finishing of the article of*
10 *jewelry containing jadeite or rubies dem-*
11 *onstrating that the jadeite or rubies were*
12 *not mined or extracted from Burma, and*
13 *accompanied by officially-validated docu-*
14 *mentation certifying the country from*
15 *which the jadeite or rubies were mined or*
16 *extracted.*

17 “(iv) *Verifiable recordkeeping by all*
18 *entities and individuals engaged in mining,*
19 *importation, and exportation of non-Bur-*
20 *mese covered articles in the country, and*
21 *subject to inspection and verification by au-*
22 *thorized authorities of the government of the*
23 *country in accordance with applicable law.*

24 “(v) *Implementation by the govern-*
25 *ment of the country of proportionate and*

1 *dissuasive penalties against any persons*
2 *who violate laws and regulations designed*
3 *to prevent trade in Burmese covered arti-*
4 *cles.*

5 “(vi) *Full cooperation by the country*
6 *with the United Nations or other official*
7 *international organizations that seek to pre-*
8 *vent trade in Burmese covered articles.*

9 “(3) *REGULATORY AUTHORITY.—The President*
10 *is authorized to, and shall as necessary, issue such*
11 *proclamations, regulations, licenses, and orders and*
12 *conduct such investigations, as may be necessary to*
13 *implement the provisions under paragraphs (1) and*
14 *(2).*

15 “(d) *INAPPLICABILITY.—*

16 “(1) *IN GENERAL.—The requirements of sub-*
17 *section (b)(1) and subsection (c)(1) shall not apply to*
18 *Burmese covered articles and non-Burmese covered*
19 *articles, respectively, that were previously exported*
20 *from the United States, including those that accom-*
21 *panied an individual outside the United States for*
22 *personal use, if they are reimported into the United*
23 *States by the same person, without having been ad-*
24 *vanced in value or improved in condition by any*

1 *process or other means while outside the United*
2 *States.*

3 “(2) *ADDITIONAL PROVISION.—The requirements*
4 *of subsection (c)(1) shall not apply with respect to the*
5 *importation of non-Burmese covered articles that are*
6 *imported by or on behalf of an individual for per-*
7 *sonal use and accompanying an individual upon*
8 *entry into the United States.*

9 “(e) *ENFORCEMENT.—Burmese covered articles or*
10 *non-Burmese covered articles that are imported into the*
11 *United States in violation of any prohibition of this Act*
12 *or any other provision law shall be subject to all applicable*
13 *seizure and forfeiture laws and criminal and civil laws of*
14 *the United States to the same extent as any other violation*
15 *of the customs laws of the United States.*

16 “(f) *SENSE OF CONGRESS.—*

17 “(1) *IN GENERAL.—It is the sense of Congress*
18 *that the President should take the necessary steps to*
19 *seek to negotiate an international arrangement—*
20 *similar to the Kimberley Process Certification Scheme*
21 *for conflict diamonds—to prevent the trade in Bur-*
22 *mese covered articles. Such an international arrange-*
23 *ment should create an effective global system of con-*
24 *trols and should contain the measures described in*
25 *subsection (c)(2)(B) (or their functional equivalent).*

1 “(2) *KIMBERLEY PROCESS CERTIFICATION*
2 *SCHEME DEFINED.*—*In paragraph (1), the term*
3 *‘Kimberley Process Certification Scheme’ has the*
4 *meaning given the term in section 3(6) of the Clean*
5 *Diamond Trade Act (Public Law 108–19; 19 U.S.C.*
6 *3902(6)).*

7 “(g) *REPORT.*—

8 “(1) *IN GENERAL.*—*Not later than 180 days*
9 *after the date of the enactment of the Tom Lantos*
10 *Block Burmese JADE (Junta’s Anti-Democratic Ef-*
11 *forts) Act of 2008, the President shall transmit to the*
12 *appropriate congressional committees a report de-*
13 *scribing what actions the United States has taken*
14 *during the 60-day period beginning on the date of the*
15 *enactment of such Act to seek—*

16 “(A) *the issuance of a draft waiver decision*
17 *by the Council for Trade in Goods of the World*
18 *Trade Organization, as specified in subsection*
19 *(b)(3)(A);*

20 “(B) *the adoption of a resolution by the*
21 *United Nations General Assembly, as specified*
22 *in subsection (b)(3)(B); and*

23 “(C) *the negotiation of an international ar-*
24 *rangement, as specified in subsection (f)(1).*

1 “(2) *UPDATE.*—*The President shall make contin-*
2 *ued efforts to seek the items specified in subpara-*
3 *graphs (A), (B), and (C) of paragraph (1) and shall*
4 *promptly update the appropriate congressional com-*
5 *mittees on subsequent developments with respect to*
6 *these efforts.*

7 “(h) *GAO REPORT.*—*Not later than 14 months after*
8 *the date of the enactment of the Tom Lantos Block Burmese*
9 *JADE (Junta’s Anti-Democratic Efforts) Act of 2008, the*
10 *Comptroller General of the United States shall submit to*
11 *the appropriate congressional committees a report on the*
12 *effectiveness of the implementation of this section. The*
13 *Comptroller General shall include in the report any rec-*
14 *ommendations for improving the administration of this*
15 *Act.”.*

16 (b) *DURATION OF SANCTIONS.*—

17 (1) *CONTINUATION OF IMPORT SANCTIONS.*—*Sub-*
18 *section (b) of section 9 of the Burmese Freedom and*
19 *Democracy Act of 2003 (Public Law 108–61; 50*
20 *U.S.C. 1701 note) is amended by adding at the end*
21 *the following new paragraph:*

22 “(4) *RULE OF CONSTRUCTION.*—*For purposes of*
23 *this subsection, any reference to section 3(a)(1) shall*
24 *be deemed to include a reference to section 3A (b)(1)*
25 *and (c)(1).”.*

1 (2) *RENEWAL RESOLUTIONS.*—*Subsection (c) of*
2 *such section is amended by inserting after “section*
3 *3(a)(1)” each place it appears the following: “and sec-*
4 *tion 3A (b)(1) and (c)(1)”.*

5 (3) *EFFECTIVE DATE.*—

6 (A) *IN GENERAL.*—*The amendments made*
7 *by this subsection take effect on the day after the*
8 *date of the enactment of 5th renewal resolution*
9 *enacted into law after the date of the enactment*
10 *of the Burmese Freedom and Democracy Act of*
11 *2003, or the date of the enactment of this Act,*
12 *whichever occurs later.*

13 (B) *RENEWAL RESOLUTION DEFINED.*—*In*
14 *this paragraph, the term “renewal resolution”*
15 *means a renewal resolution described in section*
16 *9(c) of the Burmese Freedom and Democracy Act*
17 *of 2003 that is enacted into law in accordance*
18 *with such section.*

19 (c) *CONFORMING AMENDMENT.*—*Section 3(b) of the*
20 *Burmese Freedom and Democracy Act of 2003 (Public Law*
21 *108–61; 50 U.S.C. 1701 note) is amended—*

22 (1) *by striking “prohibitions” and inserting “re-*
23 *strictions”;*

24 (2) *by inserting “or section 3A (b)(1) or (c)(1)”*
25 *after “this section”; and*

1 (3) *by striking “a product of Burma” and in-*
2 *serting “subject to such restrictions”.*

3 **SEC. 7. SPECIAL REPRESENTATIVE AND POLICY COORDI-**
4 **NATOR FOR BURMA.**

5 (a) *UNITED STATES SPECIAL REPRESENTATIVE AND*
6 *POLICY COORDINATOR FOR BURMA.—The President shall*
7 *appoint a Special Representative and Policy Coordinator*
8 *for Burma, by and with the advice and consent of the Sen-*
9 *ate.*

10 (b) *RANK.—The Special Representative and Policy Co-*
11 *ordinator for Burma appointed under subsection (a) shall*
12 *have the rank of ambassador and shall hold the office at*
13 *the pleasure of the President. Except for the position of*
14 *United States Ambassador to the Association of Southeast*
15 *Asian Nations, the Special Representative and Policy Coor-*
16 *dinator may not simultaneously hold a separate position*
17 *within the executive branch, including the Assistant Sec-*
18 *retary of State, the Deputy Assistant Secretary of State,*
19 *the United States Ambassador to Burma, or the Charge*
20 *d’affaires to Burma.*

21 (c) *DUTIES AND RESPONSIBILITIES.—The Special*
22 *Representative and Policy Coordinator for Burma shall—*
23 (1) *promote a comprehensive international effort,*
24 *including multilateral sanctions, direct dialogue with*
25 *the SPDC and democracy advocates, and support for*

1 *violent opposition to the SPDC in their efforts to promote*
 2 *freedom, democracy, and human rights in Burma.*

3 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
 4 *authorized to be appropriated \$5,000,000 to the Secretary*
 5 *of State for fiscal year 2008 to—*

6 (1) *provide aid to democracy activists in Burma;*

7 (2) *provide aid to individuals and groups con-*
 8 *ducting democracy programming outside of Burma*
 9 *targeted at a peaceful transition to constitutional de-*
 10 *mocracy inside Burma; and*

11 (3) *expand radio and television broadcasting*
 12 *into Burma.*

13 **SEC. 9. SUPPORT FOR NONGOVERNMENTAL ORGANIZA-**
 14 **TIONS ADDRESSING THE HUMANITARIAN**
 15 **NEEDS OF THE BURMESE PEOPLE.**

16 (a) *SENSE OF CONGRESS.*—*It is the sense of Congress*
 17 *that the international community should increase support*
 18 *for nongovernmental organizations attempting to meet the*
 19 *urgent humanitarian needs of the Burmese people.*

20 (b) *LICENSES FOR HUMANITARIAN OR RELIGIOUS AC-*
 21 *TIVITIES IN BURMA.*—*Section 5 of the Burmese Freedom*
 22 *and Democracy Act of 2003 (50 U.S.C. 1701 note) is*
 23 *amended—*

24 (1) *by inserting “(a) OPPOSITION TO ASSIST-*
 25 *ANCE TO BURMA.—” before “The Secretary”; and*

1 (2) *by adding at the end the following new sub-*
2 *section:*

3 “(b) *LICENSES FOR HUMANITARIAN OR RELIGIOUS*
4 *ACTIVITIES IN BURMA.—Notwithstanding any other provi-*
5 *sion of law, the Secretary of the Treasury is authorized to*
6 *issue multi-year licenses for humanitarian or religious ac-*
7 *tivities in Burma.”.*

8 (c) *AUTHORIZATION OF APPROPRIATIONS.—*

9 (1) *IN GENERAL.—Notwithstanding any other*
10 *provision of law, there are authorized to be appro-*
11 *priated \$11,000,000 to the Secretary of State for fis-*
12 *cal year 2008 to support operations by nongovern-*
13 *mental organizations, subject to paragraph (2), de-*
14 *signed to address the humanitarian needs of the Bur-*
15 *mese people inside Burma and in refugee camps in*
16 *neighboring countries.*

17 (2) *LIMITATION.—*

18 (A) *IN GENERAL.—Except as provided*
19 *under subparagraph (B), amounts appropriated*
20 *pursuant to paragraph (1) may not be provided*
21 *to—*

22 (i) *SPDC-controlled entities;*

23 (ii) *entities run by members of the*
24 *SPDC or their families; or*

1 (iii) entities providing cash or re-
2 sources to the SPDC, including organiza-
3 tions affiliated with the United Nations.

4 (B) WAIVER.—The President may waive the
5 funding restriction described in subparagraph
6 (A) if—

7 (i) the President determines and cer-
8 tifies to the appropriate congressional com-
9 mittees that such waiver is in the national
10 interests of the United States;

11 (ii) a description of the national inter-
12 ests need for the waiver is submitted to the
13 appropriate congressional committees; and

14 (iii) the description submitted under
15 clause (ii) is posted on a publicly accessible
16 Internet Web site of the Department of
17 State.

18 **SEC. 10. REPORT ON MILITARY AND INTELLIGENCE AID TO**

19 **BURMA.**

20 (a) IN GENERAL.—Not later than 180 days after the
21 date of the enactment of this Act and annually thereafter,
22 the Secretary of State shall submit to the Committee on For-
23 eign Affairs of the House of Representatives and the Com-
24 mittee on Foreign Relations of the Senate a report con-
25 taining a list of countries, companies, and other entities

1 *that provide military or intelligence aid to the SPDC and*
2 *describing such military or intelligence aid provided by*
3 *each such country, company, and other entity.*

4 *(b) MILITARY OR INTELLIGENCE AID DEFINED.—For*
5 *the purpose of this section, the term “military or intel-*
6 *ligence aid” means, with respect to the SPDC—*

7 *(1) the provision of weapons, weapons parts,*
8 *military vehicles, or military aircraft;*

9 *(2) the provision of military or intelligence*
10 *training, including advice and assistance on subject*
11 *matter expert exchanges;*

12 *(3) the provision of weapons of mass destruction*
13 *and related materials, capabilities, and technology,*
14 *including nuclear, chemical, or dual-use capabilities;*

15 *(4) conducting joint military exercises;*

16 *(5) the provision of naval support, including*
17 *ship development and naval construction;*

18 *(6) the provision of technical support, including*
19 *computer and software development and installations,*
20 *networks, and infrastructure development and con-*
21 *struction; or*

22 *(7) the construction or expansion of airfields, in-*
23 *cluding radar and anti-aircraft systems.*

24 *(c) FORM.—The report required under subsection (a)*
25 *shall be submitted in unclassified form but may include a*

1 *classified annex and the unclassified form shall be placed*
2 *on the Department of State's website.*

3 **SEC. 11. SENSE OF CONGRESS ON INTERNATIONAL ARMS**

4 **SALES TO BURMA.**

5 *It is the sense of Congress that the United States should*
6 *lead efforts in the United Nations Security Council to im-*
7 *pose a mandatory international arms embargo on Burma,*
8 *curtailing all sales of weapons, ammunition, military vehi-*
9 *cles, and military aircraft to Burma until the SPDC re-*
10 *leases all political prisoners, restores constitutional rule,*
11 *takes steps toward inclusion of ethnic minorities in political*
12 *reconciliation efforts, and holds free and fair elections to*
13 *establish a new government.*

14 **SEC. 12. REDUCTION OF SPDC REVENUE FROM TIMBER.**

15 *(a) REPORT.—Not later than one year after the date*
16 *of the enactment of this Act and annually thereafter, the*
17 *Secretary of State, in consultation with the Secretary of*
18 *Commerce, and other Federal officials, as appropriate, shall*
19 *submit to the appropriate congressional committees a report*
20 *on Burma's timber trade containing information on the fol-*
21 *lowing:*

22 *(1) Products entering the United States made in*
23 *whole or in part of wood grown and harvested in*
24 *Burma, including measurements of annual value and*

1 *volume and considering both legal and illegal timber*
2 *trade.*

3 (2) *Statistics about Burma's timber trade, in-*
4 *cluding raw wood and wood products, in aggregate*
5 *and broken down by country and timber species, in-*
6 *cluding measurements of value and volume and con-*
7 *sidering both legal and illegal timber trade.*

8 (3) *A description of the chains of custody of*
9 *products described in paragraph (1), including direct*
10 *trade streams from Burma to the United States and*
11 *via manufacturing or transshipment in third coun-*
12 *tries.*

13 (4) *Illegalities, abuses, or corruption in the Bur-*
14 *mese timber sector.*

15 (5) *A description of all common consumer and*
16 *commercial applications unique to Burmese hard-*
17 *woods, including the furniture and marine manufac-*
18 *turing industries.*

19 (b) *RECOMMENDATIONS.—The report required under*
20 *subsection (a) shall include recommendations on the fol-*
21 *lowing:*

22 (1) *Alternatives to Burmese hardwoods for the*
23 *commercial applications described in paragraph (5)*
24 *of subsection (a), including alternative species of tim-*
25 *ber that could provide the same applications.*

1 *Committee on Finance of the Senate a report containing*
2 *a list of all countries and foreign banking institutions that*
3 *hold assets on behalf of senior Burmese officials.*

4 *(b) DEFINITIONS.—For the purpose of this section:*

5 *(1) SENIOR BURMESE OFFICIALS.—The term*
6 *“senior Burmese officials” shall mean individuals*
7 *covered under section 5(d)(1) of this Act.*

8 *(2) OTHER TERMS.—Other terms shall be defined*
9 *under the authority of and consistent with section*
10 *5(c)(2) of this Act.*

11 *(c) FORM.—The report required under subsection (a)*
12 *shall be submitted in unclassified form but may include a*
13 *classified annex. The report shall also be posted on the De-*
14 *partment of Treasury’s website not later than 30 days of*
15 *the submission to Congress of the report. To the extent pos-*
16 *sible, the report shall include the names of the senior Bur-*
17 *mese officials and the approximate value of their holdings*
18 *in the respective foreign banking institutions and any other*
19 *pertinent information.*

20 **SEC. 14. UNOCAL PLAINTIFFS.**

21 *(a) SENSE OF CONGRESS.—It is the Sense of Congress*
22 *that the United States should work with the Royal Thai*
23 *Government to ensure the safety in Thailand of the 15*
24 *plaintiffs in the Doe v. Unocal case, and should consider*
25 *granting refugee status or humanitarian parole to these*

1 *plaintiffs to enter the United States consistent with existing*
2 *United States law.*

3 (b) *REPORT.*—*Not later than 90 days after the date*
4 *of the enactment of this Act, the President shall submit to*
5 *the appropriate Congressional committees a report on the*
6 *status of the Doe vs. Unocal plaintiffs and whether the*
7 *plaintiffs have been granted refugee status or humanitarian*
8 *parole.*

9 **SEC. 15. SENSE OF CONGRESS WITH RESPECT TO INVEST-**
10 **MENTS IN BURMA'S OIL AND GAS INDUSTRY.**

11 (a) *FINDINGS AND DECLARATIONS.*—*Congress finds*
12 *the following:*

13 (1) *Currently United States, French, and Thai*
14 *investors are engaged in the production and delivery*
15 *of natural gas in the pipeline from the Yadana and*
16 *Sein fields (Yadana pipeline) in the Andaman Sea,*
17 *an enterprise which falls under the jurisdiction of the*
18 *Burmese Government, and United States investment*
19 *by Chevron represents approximately a 28 percent*
20 *nonoperated, working interest in that pipeline.*

21 (2) *The Congressional Research Service estimates*
22 *that the Yadana pipeline provides at least*
23 *\$500,000,000 in annual revenue for the Burmese Gov-*
24 *ernment.*

1 (3) *The natural gas that transits the Yadana*
2 *pipeline is delivered primarily to Thailand, rep-*
3 *resenting about 20 percent of Thailand's total gas*
4 *supply.*

5 (4) *The executive branch has in the past exempt-*
6 *ed investment in the Yadana pipeline from the sanc-*
7 *tions regime against the Burmese Government.*

8 (5) *Congress believes that United States compa-*
9 *nies ought to be held to a high standard of conduct*
10 *overseas and should avoid as much as possible acting*
11 *in a manner that supports repressive regimes such as*
12 *the Burmese Government.*

13 (6) *Congress recognizes the important symbolic*
14 *value that divestment of United States holdings in*
15 *Burma would have on the international sanctions ef-*
16 *fort, demonstrating that the United States will con-*
17 *tinue to lead by example.*

18 (b) *STATEMENT OF POLICY.—*

19 (1) *Congress urges Yadana investors to consider*
20 *voluntary divestment over time if the Burmese Gov-*
21 *ernment fails to take meaningful steps to release po-*
22 *litical prisoners, restore civilian constitutional rule*
23 *and promote national reconciliation.*

1 (2) *Congress will remain concerned with the*
2 *matter of continued investment in the Yadana pipe-*
3 *line in the years ahead.*

4 (3) *Congress urges the executive branch to work*
5 *with all firms invested in Burma's oil and gas sector*
6 *to use their influence to promote the peaceful transi-*
7 *tion to civilian democratic rule in Burma.*

8 (c) *SENSE OF CONGRESS.—It is the sense of Congress*
9 *that so long as Yadana investors remain invested in*
10 *Burma, such investors should—*

11 (1) *communicate to the Burmese Government,*
12 *military and business officials, at the highest levels,*
13 *concern about the lack of genuine consultation be-*
14 *tween the Burmese Government and its people, the*
15 *failure of the Burmese Government to use its natural*
16 *resources to benefit the Burmese people, and the mili-*
17 *tary's use of forced labor;*

18 (2) *publicly disclose and deal with in a trans-*
19 *parent manner, consistent with legal obligations, its*
20 *role in any ongoing investment in Burma, including*
21 *its financial involvement in any joint production*
22 *agreement or other joint ventures and the amount of*
23 *their direct or indirect support of the Burmese Gov-*
24 *ernment; and*

1 (3) *work with project partners to ensure that*
2 *forced labor is not used to construct, maintain, sup-*
3 *port, or defend the project facilities, including pipe-*
4 *lines, offices, or other facilities.*

Resolved further, That the House agree to the amendment of the Senate to the title of the aforesaid bill with the following:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the bill, amend the title so as to read: “An Act to impose sanctions on officials of the State Peace and Development Council in Burma, to amend the Burmese Freedom and Democracy Act of 2003 to exempt humanitarian assistance from United States sanctions on Burma, to prohibit the importation of gemstones from Burma, or that originate in Burma, to promote a coordinated international effort to restore civilian democratic rule to Burma, and for other purposes.”.

Attest:

Clerk.

110TH CONGRESS
2^D SESSION

H.R. 3890

**HOUSE AMENDMENTS
TO SENATE
AMENDMENTS**