

110TH CONGRESS
1ST SESSION

S. 2257

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 prohibit the importation of gemstones and hardwoods from Burma, to promote a coordinated international effort to restore civilian democratic rule to Burma, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 29, 2007

Mr. BIDEN (for himself, Mr. McCONNELL, Mrs. BOXER, Mr. DODD, Mr. LEAHY, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

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 prohibit the importation of gemstones and hardwoods from Burma, to promote a coordinated international effort to restore civilian democratic rule to Burma, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Burma Democracy
3 Promotion Act of 2007”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) Beginning on August 19, 2007, hundreds of
7 thousands of citizens of Burma, including thousands
8 of Buddhist monks and students, participated in
9 peaceful demonstrations against rapidly deterio-
10 rating living conditions and the violent and repres-
11 sive policies of the State Peace and Development
12 Council, the ruling military regime in Burma—

13 (A) to demand the release of all political
14 prisoners, including 1991 Nobel Peace Prize
15 winner Aung San Suu Kyi; and

16 (B) to urge the SPDC to engage in mean-
17 ingful dialogue to pursue national reconcili-
18 ation.

19 (2) The SPDC violently confronted unarmed
20 demonstrators, killing, injuring, and imprisoning
21 citizens, including several thousand Buddhist monks,
22 and continues to forcefully restrict peaceful forms of
23 public expression.

24 (3) The Department of State’s 2006 Country
25 Reports on Human Rights Practices found that the
26 SPDC—

1 (A) routinely restricts freedoms of speech,
2 press, assembly, association, religion, and move-
3 ment;

4 (B) traffics in persons;

5 (C) discriminates against women and eth-
6 nic minorities;

7 (D) forcibly recruits child soldiers and
8 child labor; and

9 (E) commits other serious violations of
10 human rights, including extrajudicial killings,
11 custodial deaths, disappearances, rape, torture,
12 abuse of prisoners and detainees, and the im-
13 prisonment of citizens arbitrarily for political
14 motives.

15 (4) Aung San Suu Kyi has been arbitrarily im-
16 prisoned or held under house arrest for more than
17 12 years.

18 (5) On September 25, 2007, President Bush
19 announced that the United States would—

20 (A) tighten economic sanctions against
21 Burma, and block property and interests in
22 property of—

23 (i) certain senior leaders of the
24 SPDC;

1 (ii) individuals who provide financial
 2 backing for the SPDC; and

3 (iii) individuals responsible for viola-
 4 tions of human rights and for impeding the
 5 transition to democracy in Burma; and

6 (B) impose an expanded visa ban on indi-
 7 viduals—

8 (i) responsible for violations of human
 9 rights; and

10 (ii) who aid, abet, or benefit from the
 11 efforts of the SPDC to impede the efforts
 12 of the people of Burma to transition to de-
 13 mocracy and ensure respect for human dig-
 14 nity.

15 (6) The Burmese regime and its supporters fi-
 16 nance their ongoing violations of human rights, un-
 17 democratic policies, and military activities through
 18 financial transactions, travel, and trade involving the
 19 United States, including the sale of gemstones and
 20 hardwoods.

21 (7) The SPDC seeks to evade the sanctions im-
 22 posed in the Burmese Freedom and Democracy Act
 23 of 2003. Millions of dollars in gemstones that are
 24 exported from Burma ultimately enter the United
 25 States, but the Burmese regime attempts to conceal

1 the origin of the gemstones in an effort to evade
2 sanctions. For example, over 90 percent of the
3 world's ruby supply originates in Burma but only 3
4 percent of the rubies entering the United States are
5 claimed to be of Burmese origin. The value of Bur-
6 mese gemstones is predominantly based on their
7 original quality and geological origin, rather than
8 the labor involved in cutting and polishing the
9 gemstones.

10 (8) Burma is home to approximately 60 percent
11 of the world's native teak reserves. More than $\frac{1}{4}$ of
12 the world's internationally traded teak originates
13 from Burma, and hardwood sales, mainly of teak,
14 represent more than 11 percent of Burma's official
15 foreign exchange earnings.

16 (9) Burma officially exports tens of millions of
17 dollars worth of rubies, sapphires, pearls, jade, and
18 other precious stones each year and the SPDC owns
19 a majority stake in all mining operations within the
20 borders of Burma.

21 (10) On October 11, 2007, the United Nations
22 Security Council, with the consent of the People's
23 Republic of China, issued a statement condemning
24 the violence in Burma, urging the release of all polit-
25 ical prisoners, and calling on the SPDC to enter into

1 a United Nations-mediated dialogue with its political
2 opposition.

3 (11) The United Nations special envoy Ibrahim
4 Gambari traveled to Burma from September 29,
5 2007, through October 2, 2007, holding meetings
6 with SPDC leader General Than Shwe and democ-
7 racy advocate Aung San Suu Kyi in an effort to pro-
8 mote dialogue between the SPDC and democracy ad-
9 vocates.

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

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

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

24 (2) APPROPRIATE CONGRESSIONAL COMMIT-
25 TEES.—The term “appropriate congressional com-

mittees” means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

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

(4) PERSON.—The term “person” means—

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

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

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

(6) UNITED STATES PERSON.—The term “United States person” means—

(A) an individual who is a citizen of the United States or who owes permanent allegiance to the United States; and

(B) a person that is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if individuals described in subparagraph (A) own, directly or indirectly, more than 50 percent of

1 the outstanding capital stock or other beneficial
2 interest in such entity.

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

4 It is the policy of the United States to—

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

7 (2) work with the international community, es-
8 pecially the People's Republic of China, India, Thai-
9 land, and ASEAN, to foster support for the legiti-
10 mate democratic aspirations of the people of Burma
11 and to coordinate efforts to impose sanctions on
12 those directly responsible for human rights abuses in
13 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 ur-
19 gent 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) LIST OF OFFICIALS OF THE SPDC.—

1 (1) IN GENERAL.—Not later than 30 days after
2 the date of the enactment of this Act, the President
3 shall submit to the appropriate congressional com-
4 mittees a list of—

5 (A) officials of the SPDC who have played
6 a direct and substantial role in the repression
7 of peaceful political activity in Burma or in the
8 commission of other human rights abuses, in-
9 cluding any current or former officials of the
10 security services and judicial institutions of the
11 SPDC; and

12 (B) any other Burmese persons who pro-
13 vide substantial economic and political support
14 for the SPDC.

15 (2) UPDATES.—The President shall regularly
16 submit updated versions of the list required under
17 paragraph (1).

18 (b) SANCTIONS.—

19 (1) VISA BAN.—A person included on the list
20 required under subsection (a) shall be ineligible for
21 a visa to enter the United States.

22 (2) WAIVER.—The ban described in subpara-
23 graph (1) may be waived only if the President sub-
24 mits written certification to Congress that such

1 waiver is in the national interests of the United
2 States.

3 (3) FINANCIAL SANCTIONS.—

4 (A) BLOCKED PROPERTY.—No property or
5 interest in property belonging to a person de-
6 scribed in subparagraph (C) may be trans-
7 ferred, paid, exported, withdrawn, or otherwise
8 dealt with if—

9 (i) the property is located in the
10 United States or within the possession or
11 control of a United States person, includ-
12 ing the overseas branch of a United States
13 person; or

14 (ii) the property comes into the pos-
15 session or control of a United States per-
16 son after the date of the enactment of this
17 Act.

18 (B) FINANCIAL TRANSACTIONS.—No
19 United States person may engage in a financial
20 transaction with the SPDC or with a person de-
21 scribed in subparagraph (C).

22 (C) PERSON DESCRIBED.—A person is de-
23 scribed in this subparagraph if the person is—

24 (i) an official of the SPDC;

1 (ii) included on the list required under
2 subsection (a); or

3 (iii) an immediate family member of a
4 person included on the list required under
5 subsection (a), if the President determines
6 that the person included on the list—

7 (I) effectively controls the prop-
8 erty, for purposes of subparagraph
9 (A); or

10 (II) would benefit from a finan-
11 cial transaction, for purposes of sub-
12 paragraph (B).

13 (c) AUTHORITY FOR ADDITIONAL BANKING SANC-
14 TIONS.—

15 (1) IN GENERAL.—The Secretary of the Treas-
16 ury, in consultation with the Secretary of State, the
17 Attorney General of the United States, and the
18 Chairman of the Board of Governors of the Federal
19 Reserve System, may prohibit or impose conditions
20 on the opening or maintaining in the United States
21 of a correspondent account or payable-through ac-
22 count by any financial institution (as that term is
23 defined in section 5312 of title 31, United States
24 Code) or financial agency that is organized under
25 the laws of a State, territory, or possession of the

1 United States, for or on behalf of a foreign banking
2 institution, if the Secretary determines that the ac-
3 count might be used—

4 (A) by a foreign banking institution that
5 holds property or an interest in property be-
6 longing to a person on the list required under
7 subsection (a); or

8 (B) to conduct a transaction on behalf of
9 a person on the list required under subsection
10 (a).

11 (2) AUTHORITY TO DEFINE TERMS.—The Sec-
12 retary of the Treasury may, by regulation, further
13 define the terms used in paragraph (1) for purposes
14 of this section, as the Secretary considers appro-
15 priate.

16 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion may be construed to prohibit any contract or other
18 financial transaction with any nongovernmental humani-
19 tarian organization in Burma.

20 (e) EXCEPTIONS.—

21 (1) IN GENERAL.—The prohibitions and restric-
22 tions described in subsections (b) and (c) shall not
23 apply to medicine, medical equipment or supplies,
24 food, or any other form of humanitarian assistance

1 provided to Burma as relief in response to a human-
2 itarian crisis.

3 (2) ADDITIONAL EXCEPTIONS.—The Secretary
4 of the Treasury may, by regulation, authorize excep-
5 tions to the prohibitions and restrictions described in
6 subsection (b) and (c)—

7 (A) to permit the United States to operate
8 its diplomatic mission;

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

11 (C) for such other purposes as the Sec-
12 retary determines to be necessary.

13 (f) PENALTIES.—Any person who violates any prohi-
14 bition or restriction described in subsection (b) or (c) shall
15 be subject to the penalties under section 6 of the Inter-
16 national Emergency Economic Powers Act (50 U.S.C.
17 1705) to the same extent as for a violation under that
18 Act.

19 (g) TERMINATION OF SANCTIONS.—The sanctions
20 imposed under subsection (b) or (c) shall apply until the
21 President determines and certifies to the appropriate con-
22 gressional committees that the SPDC has—

23 (1) unconditionally released all political pris-
24 oners, including Aung San Suu Kyi and other mem-
25 bers of the National League for Democracy;

1 (2) entered into a substantive dialogue with
 2 democratic forces led by the National League for
 3 Democracy and the ethnic minorities of Burma on
 4 transitioning to democratic government under the
 5 rule of law; and

6 (3) allowed humanitarian access to populations
 7 affected by armed conflict in all regions of Burma.

8 (h) AUTHORIZATION OF APPROPRIATIONS.—There
 9 are authorized to be appropriated such sums as may be
 10 necessary to carry out this section.

11 **SEC. 6. PROHIBITION ON IMPORTATION OF BURMESE**
 12 **GEMS, HARDWOODS, AND OTHER ITEMS.**

13 Section 3(a)(1) of the Burmese Freedom and Democ-
 14 racy Act of 2003 (50 U.S.C. 1701 note) is amended by
 15 striking “a product of Burma.” and inserting “produced,
 16 mined, manufactured, grown, or assembled in Burma, in-
 17 cluding—

18 “(A) any gemstone or rough unfinished ge-
 19 ological material mined or extracted from
 20 Burma, whether imported as a loose item or as
 21 a component of a finished piece of jewelry; and

22 “(B) any teak or other hardwood timber,
 23 regardless of the country in which such hard-
 24 wood timber is milled, sawn, or otherwise proc-
 25 essed, whether imported in unprocessed form or

1 as a part or component of finished furniture or
2 another wood item.”.

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
11 Coordinator for Burma appointed under subsection (a)
12 shall have the rank of ambassador and shall hold the office
13 at the pleasure of the President.

14 (c) DUTIES AND RESPONSIBILITIES.—The Special
15 Representative and Policy Coordinator for Burma shall—

16 (1) promote a comprehensive international ef-
17 fort, including multilateral sanctions, direct dialogue
18 with the SPDC and democracy advocates, and sup-
19 port for nongovernmental organizations operating in
20 Burma and neighboring countries, designed to re-
21 store civilian democratic rule to Burma and address
22 the urgent humanitarian needs of the Burmese peo-
23 ple;

24 (2) consult broadly, including with the Govern-
25 ments of the People’s Republic of China, India,

1 Thailand, and Japan, and the members of ASEAN
 2 and the European Union to coordinate policies to-
 3 ward Burma;

4 (3) assist efforts by the United Nations Special
 5 Envoy to secure the release of all political prisoners
 6 in Burma and to promote dialogue between the
 7 SPDC and leaders of Burma's democracy movement,
 8 including Aung San Suu Kyi;

9 (4) consult with Congress on policies relevant to
 10 Burma and the future and welfare of all the Bur-
 11 mese people, including refugees; and

12 (5) coordinate the imposition of Burma sanc-
 13 tions within the United States Government and with
 14 the relevant international financial institutions.

15 **SEC. 8. SENSE OF CONGRESS ON COORDINATION WITH THE**
 16 **ASSOCIATION OF SOUTHEAST ASIAN NA-**
 17 **TIONS.**

18 It is the sense of Congress that the United States—

19 (1) joins the foreign ministers of member na-
 20 tions of ASEAN that have expressed concern over
 21 the human rights situation in Burma;

22 (2) encourages ASEAN to take more substan-
 23 tial steps to ensure a peaceful transition to democ-
 24 racy in Burma;

1 (3) welcomes steps by ASEAN to strengthen its
2 internal governance through the adoption of a for-
3 mal ASEAN charter;

4 (4) urges ASEAN to ensure that all members
5 live up to their membership obligations and adhere
6 to the core principles of ASEAN, including respect
7 for, and commitment to, human rights; and

8 (5) would welcome a decision by ASEAN, con-
9 sistent with its core documents and its new charter,
10 to review Burma's membership in ASEAN and con-
11 sider appropriate disciplinary measures, including
12 suspension, until such time as the Government of
13 Burma has demonstrated an improved respect for,
14 and commitment to, human rights.

15 **SEC. 9. SUPPORT FOR CONSTITUTIONAL DEMOCRACY IN**
16 **BURMA.**

17 (a) IN GENERAL.—The President is authorized to as-
18 sist Burmese democracy activists who are dedicated to
19 nonviolent opposition to the SPDC in their efforts to pro-
20 mote freedom, democracy, and human rights in Burma.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated \$10,000,000 to the Sec-
23 retary of State for each of the fiscal years 2008 and 2009
24 to—

1 (1) provide aid to democracy activists in
2 Burma;

3 (2) provide aid to individuals and groups con-
4 ducting democracy programming outside of Burma
5 targeted at a peaceful transition to constitutional de-
6 mocracy inside Burma; and

7 (3) expand radio and television broadcasting
8 into Burma.

9 **SEC. 10. SUPPORT FOR NONGOVERNMENTAL ORGANIZA-**
10 **TIONS ADDRESSING THE HUMANITARIAN**
11 **NEEDS OF THE BURMESE PEOPLE.**

12 (a) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that the international community should increase
14 support for nongovernmental organizations attempting to
15 meet the urgent humanitarian needs of the Burmese peo-
16 ple.

17 (b) LICENSES FOR HUMANITARIAN OR RELIGIOUS
18 ACTIVITIES IN BURMA.—Section 5 of the Burmese Free-
19 dom and Democracy Act of 2003 (50 U.S.C. 1701) is
20 amended—

21 (1) by inserting “(a) OPPOSITION TO ASSIST-
22 ANCE TO BURMA” before “The Secretary”; and

23 (2) by adding at the end the following:

24 “(b) LICENSES FOR HUMANITARIAN OR RELIGIOUS
25 ACTIVITIES IN BURMA.—Notwithstanding any other pro-

1 vision of law, the Secretary of the Treasury is authorized
 2 to issue multi-year licenses for humanitarian or religious
 3 activities in Burma. Licenses issued pursuant to this sec-
 4 tion shall be subject to annual review.”.

5 (c) AUTHORIZATION OF APPROPRIATIONS.—There
 6 are authorized to be appropriated \$20,000,000 to the Sec-
 7 retary of State for each of the fiscal years 2008 and 2009
 8 to support operations by nongovernmental organizations
 9 designed to address the humanitarian needs of the Bur-
 10 mese people inside Burma and in refugee camps in neigh-
 11 boring countries.

12 **SEC. 11. REPORT ON MILITARY AID TO BURMA.**

13 (a) IN GENERAL.—Not later than 180 days after the
 14 date of the enactment of this Act, the Secretary of State
 15 shall submit a report to the appropriate congressional
 16 committees that—

17 (1) contains a list of countries that provide
 18 military aid to Burma; and

19 (2) describes the military aid provided by each
 20 of the countries described in paragraph (1).

21 (b) MILITARY AID DEFINED.—In this section, the
 22 term “military aid” includes—

23 (1) the provision of weapons, military vehicles,
 24 and military aircraft;

25 (2) the provision of military training; and

1 (3) conducting joint military exercises.

2 (c) FORM.—The report required under subsection (a)
3 shall be submitted in unclassified form and may include
4 a classified annex.

5 **SEC. 12. SENSE OF CONGRESS ON INTERNATIONAL ARMS**
6 **SALES TO BURMA.**

7 It is the sense of Congress that the United States
8 should lead efforts in the United Nations Security Council
9 to impose a mandatory international arms embargo on
10 Burma, curtailing all sales of weapons, ammunition, mili-
11 tary vehicles, and military aircraft to Burma until the
12 SPDC releases all political prisoners, restores constitu-
13 tional rule, and holds free and fair elections to establish
14 a new government.

