

114TH CONGRESS
2D SESSION

S. 3313

To authorize assistance to Burma and to support a principled engagement strategy for a peaceful, prosperous, and democratic Burma that respects the human rights of all its people, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2016

Mr. CARDIN (for himself, Mr. MCCAIN, Mr. DURBIN, and Mr. SCHATZ) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To authorize assistance to Burma and to support a principled engagement strategy for a peaceful, prosperous, and democratic Burma that respects the human rights of all its people, 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Burma Strategy Act of 2016”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

- Sec. 2. Findings.
- Sec. 3. Statement of policy.
- Sec. 4. Definitions.
- Sec. 5. Bilateral economic assistance.
- Sec. 6. Multilateral assistance.
- Sec. 7. Military cooperation.
- Sec. 8. The Win Tin Burma-American Enterprise Fund.
- Sec. 9. Eligibility of Burma for Generalized System of Preferences.
- Sec. 10. Strategy for promoting transparency and good governance in Burma's jadeite and gemstone sector.
- Sec. 11. Report on modifications to the JADE Act and certain Executive orders.
- Sec. 12. Sense of Congress on criteria for removal of persons from SDN list for activities relating to Burma.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The United States policy of principled en-
 4 gagement since 1988 has fostered positive demo-
 5 cratic reforms in Burma, which have led to signifi-
 6 cant milestones on the road to full democracy.

7 (2) On November 8, 2015, Burma held historic
 8 elections in which the National League for Democ-
 9 racy won a supermajority of seats in the combined
 10 national parliament.

11 (3) On March 30, 2016, Htin Kyaw was inau-
 12 gurated as the President of Burma, the country's
 13 first civilian President in more than 50 years, and
 14 Aung Sann Suu Kyi assumed the office of State
 15 Counselor. Aung San Suu Kyi, President of the Na-
 16 tional League for Democracy, was barred from be-
 17 coming President under section 59(f) of the 2008
 18 Constitution.

1 (4) Aung San Suu Kyi's first acts as State
 2 Counselor after her National League for Democracy
 3 party took office included releasing more than 100
 4 political prisoners, including well-known journalists
 5 and student activists held on politically motivated
 6 charges. However, as of July 31, 2016, 118 political
 7 prisoners remained in jails in Burma, and another
 8 167 people were awaiting trial for political expres-
 9 sion.

10 (5) Despite the important steps taken toward
 11 democracy in Burma, there still remain important
 12 structural and systemic impediments to the realiza-
 13 tion of a fully democratic civilian government, in-
 14 cluding—

15 (A) reform of the 2008 Constitution;

16 (B) the disfranchisement of groups of peo-
 17 ple who voted in previous elections; and

18 (C) social, political and economic condi-
 19 tions in Rakhine State, particularly those faced
 20 by the Rohingya population.

21 (6) Actions of the military of Burma, known as
 22 the Tatmadaw, including continuing assaults on per-
 23 sonnel and territory controlled by armed ethnic orga-
 24 nizations, military offenses immediately preceding
 25 the peace conference in Naypyitaw, and alleged

1 human rights abuses against noncombatant civilians
2 in conflict areas, undermine confidence in estab-
3 lishing a credible nationwide cease-fire agreement
4 ending Burma's civil war.

5 (7) The United States supports a peaceful,
6 prosperous, and democratic Burma that respects the
7 human rights of all its people. The inauguration of
8 President Htin Kyaw, and the formation of a demo-
9 cratically elected, civilian-led government were mo-
10 mentous steps for the democratic transition of
11 Burma and the United States seeks to build and
12 capitalize on that success.

13 (8) The United States supports Burma's polit-
14 ical and economic reforms, including efforts to—

15 (A) promote national reconciliation;

16 (B) build government transparency and ac-
17 countability and government institutions;

18 (C) empower local communities and civil
19 society;

20 (D) promote responsible international en-
21 gagement; and

22 (E) strengthen respect for and protection
23 of human rights and religious freedom.

24 (9) On March 17, 2016, the Department of
25 State determined that Burma remains designated as

1 a country of particular concern for religious freedom
2 under section 402(b) of the International Religious
3 Freedom Act (22 U.S.C. 6442(b)), and that “mem-
4 bers of the Rohingya community in particular re-
5 portedly face abuses by the Government of Burma,
6 including those involving torture, unlawful arrest
7 and detention, restricted movement, restrictions on
8 religious practices and discrimination in employment
9 and access to social services”.

10 (10) On August 23, 2016, the Government of
11 Burma announced the establishment of the Advisory
12 Commission on Rakhine State, which will be chaired
13 by former Secretary-General of the United Nations
14 Kofi Annan.

15 (11) On May 17, 2016, the United States an-
16 nounced a calibrated easing of sanctions with respect
17 to Burma by removing individuals and entities from
18 the list of specially designated nationals and blocked
19 persons maintained by the Office of Foreign Assets
20 Control of the Department of the Treasury and re-
21 newing authorities for sanctions with respect to
22 Burma as provided under the International Emer-
23 gency Economic Powers Act (50 U.S.C. 1701 et
24 seq.).

1 (12) In 2015, the nongovernmental campaign
2 Global Witness found that in 2014 the estimated
3 value of official production of jade equated up to 48
4 percent of the official gross domestic product of
5 Burma, but because of corruption and a lack of
6 transparency the economic gains of Burma are being
7 pocketed by notorious junta-era players, from former
8 dictator Than Shwe to United States-sanctioned
9 drug lord Wei Hsueh Kang, and showed how vested
10 interests in jade are undermining prospects for re-
11 solving the most intractable armed conflict in
12 Burma.

13 (13) In July 2016, the Government of Burma
14 announced that all remaining jade mining licenses
15 will expire in 2018, and no new permits will be
16 granted until a reformed legal framework is in place.

17 (14) In July 2016, the Government of Burma
18 also announced that logging would be prohibited in
19 major forested areas for the rest of the year.

20 (15) The people of Burma continue to suffer
21 from a low grade civil war between the Tatmadaw
22 and nearly 20 armed ethnic organizations.

23 (16) Any prospects for a full democracy in
24 Burma are contingent on ending the civil war and
25 finding a path toward national reconciliation be-

1 tween Burma's Bamar majority and its various eth-
2 nic minorities.

3 (17) On August 31, 2016, the Government of
4 Burma initiated the Union Peace Conference 21st
5 Century Panglong, where more than 1,400 rep-
6 resentatives of various concerned parties attended a
7 peace conference in Naypyitaw in an effort to begin
8 the process of ending Burma's civil war and discuss
9 options in forming a democratic state of Burma.

10 **SEC. 3. STATEMENT OF POLICY.**

11 It is the policy of the United States that—

12 (1) the pursuit of a calibrated engagement
13 strategy is essential to support a peaceful, pros-
14 perous, and democratic Burma that respects the
15 human rights of all its people regardless of ethnicity
16 and religion;

17 (2) the guiding principles of such a strategy to
18 support and complete the transition to democracy
19 and genuine national reconciliation include—

20 (A) support for Burma's political and eco-
21 nomic reforms;

22 (B) the establishment of a fully democratic
23 and representative political system based on
24 free and fair elections;

1 (C) the promotion of genuine national rec-
2 onciliation and conclusion of a credible and sus-
3 tainable nationwide cease-fire agreement;

4 (D) building government transparency and
5 accountability;

6 (E) the establishment of professional and
7 nonpartisan military, security, and police forces
8 that operate under civilian control;

9 (F) empowering local communities and
10 civil society;

11 (G) promoting responsible international en-
12 gagement; and

13 (H) strengthening respect for and protec-
14 tion of human rights and religious freedom; and

15 (3) adjustments to trade, economic sanctions,
16 visa restrictions, and other limitations are essential
17 elements of a calibrated engagement strategy as
18 Burma continues to progress toward democratiza-
19 tion, transparency, and genuine national reconcili-
20 ation to both support and recognize the positive
21 steps undertaken as of the date of the enactment of
22 this Act and to incentivize further reform.

23 **SEC. 4. DEFINITIONS.**

24 In this Act:

1 (1) JADEITE.—The term “jadeite” means any
2 jadeite classifiable under heading 7103 of the Har-
3 monized Tariff Schedule of the United States.

4 (2) RUBY.—The term “ruby” means any ruby
5 classifiable under heading 7103 of the Harmonized
6 Tariff Schedule of the United States.

7 **SEC. 5. BILATERAL ECONOMIC ASSISTANCE.**

8 (a) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated \$114,700,000 for fiscal
10 year 2017 to provide assistance to Burma in accordance
11 with this section.

12 (b) ASSISTANCE TO BURMA.—Subject to subsection
13 (c) and notwithstanding any other provision of law, funds
14 authorized to be appropriated by subsection (a) for assist-
15 ance to Burma may be used, among other things—

16 (1) to strengthen civil society organizations in
17 Burma, including as core support for such organiza-
18 tions;

19 (2) to implement the democracy and human
20 rights strategy required by section 7043(b)(3)(A) of
21 the Department of State, Foreign Operations, and
22 Related Programs Appropriations Act, 2014 (divi-
23 sion K of Public Law 113–76; 128 Stat. 534);

24 (3) to support community-based organizations
25 operating in Thailand to provide food, medical, and

1 other humanitarian assistance to internally displaced
2 persons in eastern Burma and to refugees from
3 Burma;

4 (4) to support programs that focus on trans-
5 parency and initiatives against corruption, conflict
6 risks, and adverse environmental and human rights
7 effects of the jade, timber, and other extractive in-
8 dustries sectors;

9 (5) to support programs that allow ethnic and
10 civil society groups in Burma to help sustain cease-
11 fire agreements and further prospects for reconcili-
12 ation and peace, which may include support to rep-
13 resentatives of armed ethnic groups as well as direct
14 United States cease-fire support and monitoring, as
15 appropriate;

16 (6) to support ethnic and civil society groups,
17 including, notwithstanding subsection (c)(1), support
18 for meeting- and hospitality-related expenses with
19 respect to representatives of the military of Burma
20 or armed ethnic groups;

21 (7) to support programs that promote ethnic
22 and religious tolerance, including tolerance in
23 Rakhine State;

1 (8) to support efforts to remove the military
2 and military-owned enterprises from their dominant
3 position in the economy;

4 (9) to support programs that improve the lives
5 of the people of Burma through strengthening eco-
6 nomic development;

7 (10) to support programs that improve the lives
8 of the people of Burma by fostering healthy and re-
9 silient communities;

10 (11) to support programs that support demo-
11 cratic institutions through technical assistance and
12 government capacity building that focus on pro-
13 moting the respect for the rule of law and human
14 rights, building transparency and accountable gov-
15 ernance systems, supporting independent media, and
16 fostering a vibrant tolerant civil society; and

17 (12) to support programs of the Office of Tran-
18 sition Initiatives of the United States Agency for
19 International Development that seek to deepen and
20 sustain the reform progress and foster a legitimate
21 and inclusive peace-building process that includes
22 partnering with local women's organization and local
23 youth political participation organizations.

24 (c) PROHIBITION ON THE USE OF FUNDS.—

1 (1) IN GENERAL.—Funds authorized to be ap-
2 propriated by subsection (a) may not be provided
3 to—

4 (A) the military of Burma or any indi-
5 vidual or organization credibly alleged to have
6 committed gross violations of human rights, in-
7 cluding violations of the human rights of the
8 Rohingya and other minority groups; or

9 (B) any individual or organization that the
10 Secretary of State determines, and reports to
11 the appropriate congressional committees, advo-
12 cates violence against ethnic or religious groups
13 and individuals in Burma, including such orga-
14 nizations as Ma Ba Tha.

15 (2) WAIVER.—The Secretary of State may
16 waive the prohibition under paragraph (1) if the
17 Secretary—

18 (A) determines that such a waiver is im-
19 portant to the national security interests of the
20 United States; and

21 (B) consults with the appropriate congres-
22 sional committees on the justification and rea-
23 sons for the waiver.

24 (d) CONSULTATIONS.—Before initiating any new pro-
25 gram or activity in Burma in fiscal year 2017 under this

1 section, the Secretary of State shall consult with the ap-
 2 propriate congressional committees.

3 (e) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
 4 FINED.—In this section, the term “appropriate congres-
 5 sional committees” means—

6 (1) the Committee on Foreign Relations and
 7 the Committee on Appropriations of the Senate; and

8 (2) the Committee on Foreign Affairs and the
 9 Committee on Appropriations of the House of Rep-
 10 resentatives.

11 **SEC. 6. MULTILATERAL ASSISTANCE.**

12 (a) IN GENERAL.—The Secretary of the Treasury
 13 shall instruct the United States executive director of each
 14 international financial institution to use the voice and vote
 15 of the United States to support a project in Burma only
 16 if the project—

17 (1) promotes accountability and transparency,
 18 including the collection, verification, and publication
 19 of beneficial ownership information related to extrac-
 20 tive industries and on-site monitoring during the life
 21 of the project;

22 (2) is developed and carried out in accordance
 23 with best practices regarding—

24 (A) environmental conservation;

1 (B) the social and cultural protection and
 2 empowerment of local populations, particularly
 3 ethnic nationalities; and

4 (C) the extraction of resources, if applica-
 5 ble, including jade and rubies;

6 (3) does not promote the displacement of local
 7 populations without appropriate consultation, harm
 8 mitigation, and compensation;

9 (4) does not incentivize or facilitate the forced
 10 migration of indigenous communities;

11 (5) does not partner with or otherwise involve
 12 military-owned enterprises or state-owned enter-
 13 prises associated with the military; and

14 (6) is in accordance with the social and environ-
 15 mental safeguards of the World Bank in effect on
 16 September 30, 2015, and applicable to loans, grants,
 17 policies, or strategies.

18 (b) INTERNATIONAL FINANCIAL INSTITUTION DE-
 19 FINED.—In this section, the term “international financial
 20 institution” means—

21 (1) each of the institutions specified in section
 22 1701(c)(2) of the International Financial Institu-
 23 tions Act (22 U.S.C. 262r(c)(2)); and

24 (2) the International Fund for Agricultural De-
 25 velopment.

1 **SEC. 7. MILITARY COOPERATION.**

2 (a) DEFENSE LANGUAGE INSTITUTE ENGLISH LAN-
3 GUAGE CENTER.—From amounts available to carry out
4 the Foreign Military Sales program, such sums as may
5 be necessary for each of the fiscal years 2017 through
6 2019 shall be available for assistance under chapter 5 of
7 part II of the Foreign Assistance Act of 1961 (22 U.S.C.
8 2347 et seq.; relating to international military education
9 and training) for Burma for the purposes of English lan-
10 guage training for the military of Burma under the De-
11 fense Language Institute English Language Center.

12 (b) EXCHANGE PROGRAM.—

13 (1) IN GENERAL.—The Secretary of State is
14 authorized to establish an exchange program be-
15 tween—

16 (A) military and civilian personnel of
17 Burma; and

18 (B)(i) military and civilian personnel of
19 countries determined by the Secretary of State
20 to be in the process of consolidating and
21 strengthening a democratic form of government
22 and demonstrating civilian oversight of the mili-
23 tary; or

24 (ii) military and civilian personnel of North
25 Atlantic Treaty Organization member countries,
26 in order to foster greater mutual respect for

1 and understanding of the principle of civilian
2 rule of the military.

3 (2) ELEMENTS OF PROGRAM.—The program
4 authorized under paragraph (1) may include con-
5 ferences, seminars, exchanges, and other events, dis-
6 tribution of publications, and reimbursements of ex-
7 penses of foreign military personnel participating in
8 the program, including transportation, translation
9 and administrative expenses.

10 (3) INCLUSION OF ETHNIC ARMED ORGANIZA-
11 TIONS.—The exchange program shall, as appro-
12 priate, include representatives of Burma’s ethnic
13 armed organizations so as not to disadvantage or
14 otherwise undermine efforts to achieve a genuine na-
15 tional cease-fire.

16 (4) LEAHY VETTING.—Any participants in the
17 exchange program shall be subjected to the regular
18 process for vetting participants in United States-
19 funded security assistance and training programs,
20 commonly known as “Leahy vetting”, pursuant to
21 section 620M of the Foreign Assistance Act of 1961
22 (22 U.S.C. 2378d).

23 (5) ROLE OF NONGOVERNMENTAL ORGANIZA-
24 TIONS.—Amounts authorized to be appropriated to
25 carry out this section for a fiscal year are authorized

1 to be made available for nongovernmental organiza-
 2 tions to facilitate the implementation of the program
 3 authorized under paragraph (1).

4 (6) AUTHORIZATION OF APPROPRIATIONS.—

5 There are authorized to be appropriated such sums
 6 as may be necessary for each of the fiscal years
 7 2017 through 2019 to carry out the program estab-
 8 lished under this subsection.

9 (c) REPORT.—

10 (1) IN GENERAL.—Not later than 180 days
 11 after the date of the enactment of this Act, the Sec-
 12 retary of Defense, in concurrence with the Secretary
 13 of State, shall submit to the appropriate congres-
 14 sional committees a report, in both classified and
 15 unclassified form, on the strategy and plans for mili-
 16 tary-to-military engagement between the United
 17 States Armed Forces and the military of Burma.

18 (2) ELEMENTS.—The report required under
 19 paragraph (1) shall include the following elements:

20 (A) A description and assessment of the
 21 Government of Burma's strategy for security
 22 sector reform.

23 (B) The United States strategy for the
 24 military-to-military relationship between the
 25 United States and Burma's military forces, in-

cluding the military of Burma, the Myanmar Police Force, and armed ethnic groups.

(C) An assessment of the progress of the military of Burma towards implementing human rights reforms, including cooperation with civilian authorities to investigate and resolve cases of human rights violations, including steps taken to demonstrate respect for laws of war and human rights provisions and a description of the elements of the military-to-military engagement between the United States and Burma that promote such implementation.

(D) An assessment of progress on the peaceful settlement of armed conflicts between the Government of Burma and ethnic minority groups.

(E) A list of ongoing military-to-military activities conducted by the United States Government, including a description of each such activity.

(F) An update on activities that were listed in previous reporting.

(G) A list of activities that are planned to occur over the upcoming year, with a description of each.

1 (H) An assessment of progress on the
2 peaceful settlement of armed conflicts between
3 the Government of Burma and ethnic minority
4 groups, including actions taken by the military
5 of Burma to adhere to cease-fire agreements
6 and withdraw forces from conflict zones, the
7 impact the armed conflict is having on the dis-
8 placement of the local population including
9 women and children, and an assessment of any
10 enhancements of the Burmese military's capa-
11 bilities against ethnic minorities.

12 (d) CIVILIAN CHANNELS.—Any program initiated
13 under this section shall use appropriate civilian govern-
14 ment channels with the democratically elected government
15 of Burma.

16 (e) REGULAR CONSULTATIONS.—Any new program
17 or activity in Burma initiated under this section shall be
18 subject to prior consultation with the appropriate congres-
19 sional committees.

20 (f) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
21 FINED.—In this section, the term “appropriate congres-
22 sional committees” means—

23 (1) the Committee on Foreign Relations, the
24 Committee on Armed Services, and the Committee
25 on Appropriations of the Senate; and

1 (2) the Committee on Foreign Affairs, the
2 Committee on Armed Services, and the Committee
3 on Appropriations of the House of Representatives.

4 **SEC. 8. THE WIN TIN BURMA-AMERICAN ENTERPRISE**
5 **FUND.**

6 (a) PURPOSES.—The purposes of this section are—

7 (1) to promote the private sector in Burma, in-
8 cluding small businesses, the agricultural sector, and
9 joint ventures with United States and Burmese par-
10 ticipants;

11 (2) to promote policies and practices conducive
12 to the private sector in Burma through loans,
13 grants, equity investments, feasibility studies, tech-
14 nical assistance, training, insurance, guarantees, and
15 other measures; and

16 (3) to support and promote initiatives that—

17 (A) meet internationally recognized stand-
18 ards for labor (as established by the Inter-
19 national Labour Organization), the environ-
20 ment, transparency, corruption (as set forth in
21 the United Nations Convention against Corrup-
22 tion), and human rights;

23 (B) do not harm or displace local commu-
24 nities; and

1 (C) encourage policies and practices condu-
2 cive to sustainable, broad-based rural develop-
3 ment and economic opportunity for Burma's
4 smallholder farmers, including women and other
5 marginalized groups, and rural small busi-
6 nesses.

7 (b) DESIGNATION OF BURMESE-AMERICAN ENTER-
8 PRISE FUND.—After consultation with the leadership of
9 each House of Congress, the President may designate a
10 private, nonprofit organization (to be known as the “Win
11 Tin Burma-American Enterprise Fund”) that the Presi-
12 dent determines has been established for the purposes
13 specified in subsection (a) to receive financial assistance
14 and support made available under this Act.

15 (c) INELIGIBILITY OF MILITARY-OWNED ENTER-
16 PRISES.—No military-owned enterprises shall be eligible
17 for participation in programs or activities of the Win Tin
18 Burma-American Enterprise Fund.

19 (d) BOARD OF DIRECTORS.—

20 (1) APPOINTMENT.—The Win Tin Burma-
21 American Enterprise Fund shall be governed by a
22 Board of Directors, which shall be comprised of not
23 less than 6 private citizens of the United States or
24 Burma appointed by the President, of which not
25 more than 2 may be citizens of Burma.

1 (2) QUALIFICATIONS.—Members of the Board
2 of Directors shall be selected from among people
3 who have experience, including experience that is
4 similar to the experience of individuals who pre-
5 viously served on the Board of Directors of a suc-
6 cessful Enterprise Fund established by the United
7 States Government on or after January 1, 1990, in
8 one or more of the following areas:

9 (A) A successful business career in private
10 equity, banking, or finance.

11 (B) A demonstrated commitment to sus-
12 tainable rural development.

13 (C) Engagement in supporting human
14 rights, democracy, and economic reform in
15 Burma.

16 (3) ADDITIONAL BOARD MEMBERS.—Upon the
17 recommendation of the Board of Directors, the
18 President may appoint up to 2 additional members
19 to the Board (in addition to the Directors appointed
20 pursuant to paragraph (1)), of which not more than
21 1 may be a non-citizen of the United States.

22 (4) EX OFFICIO BOARD MEMBERS.—The Assist-
23 ant Secretary of State for Democracy, Human
24 Rights, and Labor shall serve as an ex officio mem-
25 ber of the Board.

1 (e) GRANTS.—

2 (1) IN GENERAL.—Notwithstanding any other
3 provision of law, amounts appropriated to the Presi-
4 dent pursuant to subsection (i) shall be granted to
5 the Win Tin Burma-American Enterprise Fund by
6 the United States Agency for International Develop-
7 ment to enable the Fund to carry out the purposes
8 specified in subsection (a) and for the administrative
9 expenses of the Fund.

10 (2) ELIGIBLE PROGRAMS AND PROJECTS.—
11 Grants awarded under this section may only be used
12 for programs and projects that support the purposes
13 set forth in subsection (a).

14 (3) COMPLIANCE REQUIREMENT.—

15 (A) IN GENERAL.—Grants may not be
16 awarded to the Win Tin Burma-American En-
17 terprise Fund under this section unless the
18 Fund agrees to comply with the requirements
19 under this section.

20 (B) GRANT AGREEMENT.—The grant
21 agreement between the United States Agency
22 for International Development and the Win Tin
23 Burma-American Enterprise Fund shall state
24 that the Fund shall end its reinvestment cycle
25 not later than December 31, 2025, unless the

1 Administrator of the United States Agency for
2 International Development determines, after
3 consultation with the appropriate congressional
4 committees, that the Fund should be extended.

5 (C) PREVENTION OF MONEY LAUNDERING,
6 TERRORIST FINANCING, AND CORRUPTION.—

7 The grant agreement between the United States
8 Agency for International Development and the
9 Burma-American Enterprise Fund shall state
10 that the Fund shall comply with procedures
11 specified by the Secretary of State to ensure
12 that grant funds are not provided by the Fund
13 to or through—

14 (i) any individual, private or govern-
15 ment entity, or educational institution that
16 advocates, plans, sponsors, engages in, or
17 has engaged in, money laundering or ter-
18 rorist activity;

19 (ii) any private entity or educational
20 institution if a principal officer of its gov-
21 erning board is—

22 (I) involved in or advocating
23 money laundering or terrorist activity;
24 or

1 (II) a member of a designated
2 foreign terrorist organization; or

3 (iii) any individual or entity that is re-
4 sponsible for, or complicit in ordering, di-
5 recting, or participating in acts of signifi-
6 cant corruption or facilitating or transfer-
7 ring the proceeds of corruption to foreign
8 jurisdictions.

9 (D) DISPOSITION OF ASSETS.—All assets
10 of the Win Tin Burma-American Enterprise
11 Fund on the date on which the Fund is dis-
12 solved shall be returned to the Treasury of the
13 United States for the purpose of deficit reduc-
14 tion.

15 (f) NOTIFICATION.—

16 (1) IN GENERAL.—Not later than 15 days be-
17 fore designating an organization to operate as the
18 Burma-American Enterprise Fund pursuant to sub-
19 section (b), the President shall provide the informa-
20 tion described in paragraph (2) to the Chairman and
21 Ranking Member of the appropriate congressional
22 committees.

23 (2) INFORMATION.—The information described
24 in this paragraph is—

1 (A) the identity of the organization to be
2 designated to operate as the Win Tin Burma-
3 American Enterprise Fund pursuant to sub-
4 section (b);

5 (B) the names and qualifications of the in-
6 dividuals who will comprise the initial Board of
7 Directors;

8 (C) the procedures referred to in sub-
9 section (e)(3)(C) that will apply to the Win Tin
10 Burma-American Enterprise Fund for purposes
11 of curtailing money laundering and terrorist fi-
12 nancing activities; and

13 (D) the size of the financial grant that
14 shall be made available to the Win Tin Burma-
15 American Enterprise Fund.

16 (g) REPORTS.—

17 (1) ADMINISTRATIVE EXPENSES.—Not later
18 than one year after the date of the enactment of this
19 Act, and annually thereafter until the Fund is dis-
20 solved, the Fund shall submit to the appropriate
21 congressional committees a report that details the
22 administrative expenses of the Fund.

23 (2) GAO REPORT.—Not later than 3 years
24 after the date of the enactment of this Act, and
25 every 3 years thereafter until the Fund is dissolved,

1 the Comptroller General of the United States shall
 2 submit a report to the appropriate congressional
 3 committees that assesses the activities of the Fund
 4 in—

5 (A) achieving the stated goals of promoting
 6 private sector investment and employment in
 7 Burma, including encouraging policies and
 8 practices conducive to sustainable, broad-based
 9 rural development and economic opportunity for
 10 Burma’s smallholder farmers, including women
 11 and other marginalized groups, and rural small
 12 businesses; and

13 (B) identifying those institutional or regu-
 14 latory constraints that inhibit a more effective
 15 application of Fund resources.

16 (h) OPERATION PROVISIONS.—

17 (1) APPLICABLE PROVISIONS.—Subsections
 18 (d)(5), (g), (h), (i), (k), (l), (m), (n), (o), and (p) of
 19 section 201 of the Support for East European De-
 20 mocracy (SEED) Act of 1989 (22 U.S.C. 5421)
 21 shall apply with respect to the Win Tin Burma-
 22 American Enterprise Fund in the same manner as
 23 such provisions apply to Enterprise Funds des-
 24 ignated pursuant to subsection (d) of such section.

1 (2) REINVESTMENT.—Returns on investments
2 of the Win Tin Burma-American Enterprise Fund
3 and other payments to the Fund may be reinvested
4 in projects carried out by the Fund without further
5 appropriation by Congress.

6 (3) BEST PRACTICES AND PROCEDURES.—To
7 the maximum extent practicable, the Board of Direc-
8 tors of the Win Tin Burma-American Enterprise
9 Fund should adopt the best practices and procedures
10 used by Enterprise Funds, including those for which
11 funding has been made available pursuant to section
12 201 of the Support for East European Democracy
13 (SEED) Act of 1989 (22 U.S.C. 5421).

14 (4) EXPERIENCE OF OTHER ENTERPRISE
15 FUNDS.—In implementing this Act, the President
16 shall ensure that the Articles of Incorporation of the
17 Win Tin Burma-American Enterprise Fund (includ-
18 ing provisions specifying the responsibilities of the
19 Board of Directors of the Fund), the terms of
20 United States Government grant agreements with
21 the Fund, and United States Government oversight
22 of the Fund are, to the maximum extent practicable,
23 consistent with the Articles of Incorporation of, the
24 terms of grant agreements with, and the oversight of
25 the Enterprise Funds designated pursuant to section

1 201 of the Support for East European Democracy
2 (SEED) Act of 1989 (22 U.S.C. 5421) and com-
3 parable provisions of law.

4 (i) AUTHORIZATION OF APPROPRIATIONS.—

5 (1) IN GENERAL.—There are authorized to be
6 appropriated to the President such sums as may be
7 necessary to provide funding for grants to the
8 Burma-American Enterprise Fund, which shall be
9 used for the purposes specified in subsection (a).

10 (2) AVAILABILITY OF FUNDS.—Amounts appro-
11 priated pursuant to paragraph (1) shall remain
12 available until expended.

13 (j) DEFINITIONS.—In this section:

14 (1) APPROPRIATE CONGRESSIONAL COMMIT-
15 TEES DEFINED.—The term “appropriate congres-
16 sional committees” means—

17 (A) the Committee on Foreign Relations
18 and the Committee on Appropriations of the
19 Senate; and

20 (B) the Committee on Foreign Affairs and
21 the Committee on Appropriations of the House
22 of Representatives.

23 (2) CORRUPT ACTOR.—The term “corrupt
24 actor” means—

1 (A) any foreign person or entity that is a
 2 government official or government entity re-
 3 sponsible for, or complicit in—

4 (i) ordering or otherwise directing
 5 acts of significant corruption; or

6 (ii) facilitating or transferring the
 7 proceeds of corruption to foreign jurisdic-
 8 tions; or

9 (B) any entity, in which a person or entity
 10 described in subparagraph (A) has a significant
 11 stake, which is complicit in—

12 (i) directing or participating in signifi-
 13 cant corruption; or

14 (ii) facilitating or transferring the
 15 proceeds of corruption to foreign jurisdic-
 16 tions.

17 (3) CORRUPTION.—The term “corruption”
 18 means the extent to which public power is exercised
 19 for private gain, including by bribery, nepotism,
 20 fraud, or embezzlement.

21 **SEC. 9. ELIGIBILITY OF BURMA FOR GENERALIZED SYSTEM**
 22 **OF PREFERENCES.**

23 (a) SENSE OF CONGRESS.—It is the sense of Con-
 24 gress that—

1 (1) the eligibility of Burma for preferential tar-
2 iff treatment under the Generalized System of Pref-
3 erences under title V of the Trade Act of 1974 (19
4 U.S.C. 2461 et seq.) would—

5 (A) advance the goal of the United States
6 of increasing economic integration across Asia;

7 (B) further a constructive economic dia-
8 logue with Burma; and

9 (C) serve as a catalyst for Burma—

10 (i) to abide by international trade
11 norms, including internationally recognized
12 core labor standards; and

13 (ii) to continue the process of eco-
14 nomic liberalization;

15 (2) strengthening trade ties between the United
16 States and Burma will have a meaningful impact on
17 the people of the United States and the people of
18 Burma; and

19 (3) Burma has met international core labor
20 standards established by the International Labour
21 Organization and the other criteria for eligibility for
22 the Generalized System of Preferences under title V
23 of the Trade Act of 1974.

1 (b) ENGAGEMENT.—The United States Trade Rep-
2 resentative, in coordination with the Secretary of State
3 and the Secretary of the Treasury, should—

4 (1) work with the Government of Burma to
5 help Burma achieve eligibility for the Generalized
6 System of Preferences; and

7 (2) actively engage with and urge other coun-
8 tries to support the eligibility of Burma for the Gen-
9 eralized System of Preferences.

10 **SEC. 10. STRATEGY FOR PROMOTING TRANSPARENCY AND**
11 **GOOD GOVERNANCE IN BURMA'S JADEITE**
12 **AND GEMSTONE SECTOR.**

13 (a) IN GENERAL.—Not later than 180 days after the
14 date of the enactment of this Act, the Secretary of State,
15 in consultation with the appropriate officials of the Gov-
16 ernment of Burma, the Secretary of the Treasury, and the
17 Administrator of the United States Agency for Inter-
18 national Development, shall submit to the appropriate
19 congressional committees a strategy to promote trans-
20 parency and good governance in the jadeite, ruby, and
21 gemstones sector of Burma in accordance with the deci-
22 sion of the Government of Burma on June 28, 2016, relat-
23 ing to licenses and establishing a new legal framework.

1 (b) ELEMENTS.—In order to support the efforts of
2 Government of Burma, the strategy required by subsection
3 (a) shall include the following elements:

4 (1) A plan to develop stronger governance,
5 transparency, and economic institutions that can im-
6 prove transparency and reduce exploitation in the
7 gemstones industry of Burma by senior military fig-
8 ures and their associates (both directly and indi-
9 rectly), military-owned enterprises, external actors,
10 ethnic armed groups, and figures flagged by United
11 States counter-narcotics sanctions, and promote
12 local and regional economic development.

13 (2) A plan to provide guidance to commercial
14 entities seeking to formalize their chain of custody
15 and to exercise risk-based due diligence on their
16 gemstone supply chains, to help such entities fulfil
17 their responsibility to respect human rights and
18 avoid directly or indirectly contributing to conflict
19 through their sourcing decisions, including the
20 choice of their suppliers.

21 (3) A plan to support the implementation of
22 transparency provisions in the gemstone industry in
23 line with best practice Extractive Industries Trans-
24 parency Initiative requirements and recommenda-
25 tions, including the publication of beneficial owner-

1 ship information, contract terms, and gemstone sales
2 and revenue payments broken down by project.

3 (4) A plan to ensure licenses to export jadeite
4 and rubies contain adequate safeguards against con-
5 flicts of interest and corruption and take into ac-
6 count bidder histories, including credible allegations
7 of links to the military junta, narcotics trade, human
8 rights abuses, or adverse social or environmental im-
9 pacts.

10 (5) A plan to ensure that ethnic reconciliation
11 and peace negotiations include a process to achieve
12 consensus over resource sharing of jadeite, rubies,
13 and other gemstones that takes into account commu-
14 nity concerns with respect to equity, responsibility,
15 and transparency management, and the sustain-
16 ability of production and environmental and social
17 impacts.

18 (6) A plan to assist the Government of Burma
19 in the governance of the gemstones industry, includ-
20 ing building necessary capacity, legal structures, au-
21 diting and financial structures, evaluation of remain-
22 ing reserves, and other elements as may be nec-
23 essary to ensure the sustainable and legal govern-
24 ance of the gemstones industry.

1 (c) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
 2 FINED.—In this section, the term “appropriate congres-
 3 sional committees” means—

4 (1) the Committee on Foreign Relations and
 5 the Committee on Appropriations of the Senate; and

6 (2) the Committee on Foreign Affairs and the
 7 Committee on Appropriations of the House of Rep-
 8 resentatives.

9 **SEC. 11. REPORT ON MODIFICATIONS TO THE JADE ACT**
 10 **AND CERTAIN EXECUTIVE ORDERS.**

11 (a) IN GENERAL.—Not later than 90 days after the
 12 date of the enactment of this Act, the Secretary of State,
 13 in consultation with the Secretary of the Treasury, shall
 14 submit to Congress a report—

15 (1) assessing the advisability of modifying sec-
 16 tion 5(h) of the Tom Lantos Block Burmese JADE
 17 (Junta’s Anti-Democratic Efforts) Act of 2008
 18 (Public Law 110–286, 50 U.S.C. 1701 note) (com-
 19 monly referred to as the “JADE Act”) relating to
 20 the termination of sanctions under that Act;

21 (2) assessing the advisability of modifying or
 22 rescinding Executive Order 13448 (72 Fed. Reg.
 23 60223; relating to blocking property and prohibiting
 24 certain transactions related to Burma), Executive
 25 Order 13464 (73 Fed. Reg. 24491; relating to block-

ing property and prohibiting certain transactions related to Burma), Executive Order 13619 (77 Fed. Reg. 41243; relating to blocking property of persons threatening the peace, security, or stability of Burma), and Executive Order 13651 (78 Fed. Reg. 48793; relating to prohibiting certain imports of Burmese jadeite and rubies); and

(3) making recommendations under subsection (b) for criteria to be considered in modifying or eliminating sanctions under the JADE Act and such Executive orders and formulating United States policy after eliminating such sanctions.

(b) RECOMMENDATIONS.—

(1) IN GENERAL.—The report required by subsection (a) shall include—

(A) an explanation of how sanctions, or the modification or elimination of sanctions, are supportive of the overall strategy of the United States toward Burma;

(B) recommendations with respect to the treatment of military-owned enterprises; and

(C) recommendations on the advisability and applicability of the benchmarks or conditions described in paragraph (2) as criteria to be considered in modifying or eliminating sanc-

1 tions under the JADE Act and the Executive
2 orders specified in subsection (a)(2) with re-
3 spect to an entity, along with such other condi-
4 tions as the Secretary considers appropriate,
5 and an assessment of whether the military of
6 Burma as constructed as of the date of the re-
7 port is covered or has met those criteria.

8 (2) BENCHMARKS AND CONDITIONS.—The
9 benchmarks or conditions described in this para-
10 graph are, with respect to an entity that is a suc-
11 cessor or affiliate of the military of Burma or con-
12 trolled by former members of the military of Burma,
13 that the entity—

14 (A) unconditionally releases all political
15 prisoners, including those awaiting trial or sen-
16 tencing;

17 (B) allows humanitarian access to popu-
18 lations affected by armed conflict in all regions
19 of Burma;

20 (C) supports the peace process and govern-
21 ance reforms initiated by the 21st Century
22 Panglong Peace Conference, with the full and
23 unfettered participation of all the people of
24 Burma and in a manner that promotes and pro-
25 tects democratic development of Burma;

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

6 (E) supports legal reforms for the jadeite,
 7 ruby, and other extractive industries, which in-
 8 clude responsible, transparent, and accountable
 9 management in manner that promotes peace
 10 and includes civil society oversight and equi-
 11 table resource sharing principles;

12 (F) supports an end to offensives against
 13 ethnic nationalities and the creation of a peace-
 14 ful Federal union acceptable to the people of
 15 Burma;

16 (G) supports a meaningful and inclusive
 17 dialogue toward national reconciliation; and

18 (H) completely ceases ties with North
 19 Korea.

20 **SEC. 12. SENSE OF CONGRESS ON CRITERIA FOR REMOVAL**
 21 **OF PERSONS FROM SDN LIST FOR ACTIVITIES**
 22 **RELATING TO BURMA.**

23 (a) IN GENERAL.—It is the sense of Congress that
 24 the President should, in determining whether to remove
 25 a person from the SDN list if the person is on that list

1 for activities relating to Burma, consider the following cri-
2 teria:

3 (1) The person is not aiding or indirectly par-
4 ticipating in any organization that promotes the re-
5 pressive policies of the military of Burma, includ-
6 ing—

7 (A) any successor of the State Peace and
8 Development Council;

9 (B) any organization controlled by former
10 State Peace and Development Council members;
11 or

12 (C) any military-controlled enterprise.

13 (2) The person is not aiding or directly partici-
14 pating in credible allegations of gross violations of
15 human rights in Burma, including against Rohingya
16 and other minority groups.

17 (3) The person is not advocating violence
18 against ethnic or religious groups and individuals in
19 Burma, including through membership in such orga-
20 nizations as the Association for the Protection of
21 Nationality and Religion (commonly known as “Ma
22 Ba Tha”).

23 (4) The person is not aiding or directly partici-
24 pating in practices that would be prohibited by the
25 Foreign Corrupt Practices Act of 1977 (15 U.S.C.

1 78dd–3 et seq.) if such practices were conducted in
2 the United States or by a domestic concern (as de-
3 fined in section 104 of that Act (15 U.S.C. 78dd–
4 3)).

5 (5) The person is not aiding or directly partici-
6 pating in facilitating military relations between the
7 Government of Burma and the Government of North
8 Korea.

9 (6) The person is not aiding or directly engag-
10 ing in business deals with narcotics traffickers under
11 indictment by the United States or other producers
12 or traffickers of narcotics.

13 (7) The person is fulfilling any applicable do-
14 mestic requirements to produce environmental and
15 social impact assessments.

16 (8) The person is complying with applicable do-
17 mestic processes to satisfactorily address community
18 grievances and concerns and a monitoring process to
19 ensure proper implementation of measures to ad-
20 dress those grievances and concerns.

21 (9) The person is complying with international
22 standards on transparency, labor, the environment,
23 and human rights with respect to engaging in busi-
24 ness deals in the jadeite, rubies, or timber indus-
25 tries, including deals with businesses that directly

1 support those industries, including through the pro-
2 vision of equipment, in accordance with the Govern-
3 ment of Burma’s legal reforms in those sectors.

4 (b) SDN LIST DEFINED.—In this section, the term
5 “SDN list” means the list of specially designated nationals
6 and blocked persons maintained by the Office of Foreign
7 Assets Control of the Department of the Treasury.

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