

PUBLIC LAW 110-286—JULY 29, 2008

TOM LANTOS BLOCK BURMESE JADE
(JUNTA'S ANTI-DEMOCRATIC EFFORTS) ACT
OF 2008

Public Law 110-286
110th Congress
An Act

July 29, 2008
[H.R. 3890]

Tom Lantos
Block Burmese
JADE (Junta's
Anti-Democratic
Efforts) Act of
2008.
Human rights.
Political
prisoners.
50 USC 1701
note.
50 USC 1701
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Aung San Suu
Kyi.

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Tom Lantos Block Burmese JADE (Junta’s Anti-Democratic Efforts) Act of 2008”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Beginning on August 19, 2007, hundreds of thousands of citizens of Burma, including thousands of Buddhist monks and students, participated in peaceful demonstrations against rapidly deteriorating living conditions and the violent and repressive policies of the State Peace and Development Council (SPDC), the ruling military regime in Burma—

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

(B) to urge the regime to engage in meaningful dialogue to pursue national reconciliation.

(2) The Burmese regime responded to these peaceful protests with a violent crackdown leading to the reported killing of approximately 200 people, including a Japanese photo-journalist, and hundreds of injuries. Human rights groups further estimate that over 2,000 individuals have been detained, arrested, imprisoned, beaten, tortured, or otherwise intimidated as part of this crackdown. Burmese military, police, and their affiliates in the Union Solidarity Development Association (USDA) perpetrated almost all of these abuses. The Burmese regime continues to detain, torture, and otherwise intimidate those individuals whom it believes participated in or led the protests and it has closed down or otherwise limited access to several monasteries and temples that played key roles in the peaceful protests.

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

(A) routinely restricts freedoms of speech, press, assembly, association, religion, and movement;

(B) traffics in persons;
(C) discriminates against women and ethnic minorities;
(D) forcibly recruits child soldiers and child labor; and
(E) commits other serious violations of human rights, including extrajudicial killings, custodial deaths, disappearances, rape, torture, abuse of prisoners and detainees, and the imprisonment of citizens arbitrarily for political motives.

(4) Aung San Suu Kyi has been arbitrarily imprisoned or held under house arrest for more than 12 years.

(5) In October 2007, President Bush announced a new Executive Order to tighten economic sanctions against Burma and block property and travel to the United States by certain senior leaders of the SPDC, individuals who provide financial backing for the SPDC, and individuals responsible for human rights violations and impeding democracy in Burma. Additional names were added in updates done on October 19, 2007, and February 5, 2008. However, only 38 discrete individuals and 13 discrete companies have been designated under those sanctions, once aliases and companies with similar names were removed. By contrast, the Australian Government identified more than 400 individuals and entities subject to its sanctions applied in the wake of the 2007 violence. The European Union's regulations to implement sanctions against Burma have identified more than 400 individuals among the leadership of government, the military, and the USDA, along with nearly 1300 state and military-run companies potentially subject to its sanctions.

(6) The Burmese regime and its supporters finance their ongoing violations of human rights, undemocratic policies, and military activities in part through financial transactions, travel, and trade involving the United States, including the sale of petroleum products, gemstones and hardwoods.

(7) In 2006, the Burmese regime earned more than \$500 million from oil and gas projects, over \$500 million from sale of hardwoods, and in excess of \$300 million from the sale of rubies and jade. At least \$500 million of the \$2.16 billion earned in 2006 from Burma's two natural gas pipelines, one of which is 28 percent owned by a United States company, went to the Burmese regime. The regime has earned smaller amounts from oil and gas exploration and non-operational pipelines but United States investors are not involved in those transactions. Industry sources estimate that over \$100 million annually in Burmese rubies and jade enters the United States. Burma's official statistics report that Burma exported \$500 million in hardwoods in 2006 but NGOs estimate the true figure to exceed \$900 million. Reliable statistics on the amount of hardwoods imported into the United States from Burma in the form of finished products are not available, in part due to widespread illegal logging and smuggling.

(8) The SPDC seeks to evade the sanctions imposed in the Burmese Freedom and Democracy Act of 2003. Millions of dollars in gemstones that are exported from Burma ultimately enter the United States, but the Burmese regime attempts to conceal the origin of the gemstones in an effort to evade sanctions. For example, according to gem industry experts, over 90 percent of the world's ruby supply originates

in Burma but only 3 percent of the rubies entering the United States are claimed to be of Burmese origin. The value of Burmese gemstones is predominantly based on their original quality and geological origin, rather than the labor involved in cutting and polishing the gemstones.

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

(10) The SPDC owns a majority stake in virtually all enterprises responsible for the extraction and trade of Burmese natural resources, including all mining operations, the Myanmar Timber Enterprise, the Myanmar Gems Enterprise, the Myanmar Pearl Enterprise, and the Myanmar Oil and Gas Enterprise. Virtually all profits from these enterprises enrich the SPDC.

(11) On October 11, 2007, the United Nations Security Council, with the consent of the People's Republic of China, issued a statement condemning the violence in Burma, urging the release of all political prisoners, and calling on the SPDC to enter into a United Nations-mediated dialogue with its political opposition.

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

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

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

(15) The response to the cyclone by Burma's military leaders illustrates their fundamental lack of concern for the welfare of the Burmese people. The regime did little to warn citizens of the cyclone, did not provide adequate humanitarian assistance to address basic needs and prevent loss of life, and continues to fail to provide life-protecting and life-sustaining services to its people.

(16) The international community responded immediately to the cyclone and attempted to provide humanitarian assistance. More than 30 disaster assessment teams from 18 different nations and the United Nations arrived in the region, but the Burmese regime denied them permission to enter the country. Eventually visas were granted to aid workers, but the regime continues to severely limit their ability to provide assistance in the affected areas.

(17) Despite the devastation caused by Cyclone Nargis, the junta went ahead with its referendum on a constitution drafted by an illegitimate assembly, conducting voting in

Ibrahim
Gambari.
Than Shwe.

unaffected areas on May 10, 2008, and in portions of the affected Irrawaddy region and Rangoon on May 26, 2008.

SEC. 3. DEFINITIONS.50 USC 1701
note.

In this Act:

(1) ACCOUNT; CORRESPONDENT ACCOUNT; PAYABLE-THROUGH ACCOUNT.—The terms “account”, “correspondent account”, and “payable-through account” have the meanings given the terms in section 5318A(e)(1) of title 31, United States Code.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Finance of the Senate;

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

(D) the Committee on Ways and Means 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 non-governmental 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 any United States citizen, permanent resident alien, juridical person organized under the laws of the United States (including foreign branches), or any person in the United States.

SEC. 4. STATEMENT OF POLICY.50 USC 1701
note.

It is the policy of the United States to—

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

(2) work with the international community, especially the People’s Republic of China, India, Thailand, and ASEAN, to foster support for the legitimate democratic aspirations of the people of Burma and to coordinate efforts to impose sanctions on those directly responsible for human rights abuses in Burma;

(3) provide all appropriate support and assistance to aid a peaceful transition to constitutional democracy in Burma;

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

(5) identify individuals responsible for the repression of peaceful political activity in Burma and hold them accountable for their actions.

SEC. 5. SANCTIONS.50 USC 1701
note.

(a) VISA BAN.—

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

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

(B) Officials of the SPDC, the Burmese military, or the USDA involved in the repression of peaceful political activity or in other gross violations of human rights in Burma or in the commission of other human rights abuses, including any current or former officials of the security services and judicial institutions of the SPDC.

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

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

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

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to conflict with the provisions of section 694 of the Consolidated Appropriations Act, 2008 (Public Law 110-161), nor shall this subsection be construed to make ineligible for a visa members of ethnic groups in Burma now or previously opposed to the regime who were forced to provide labor or other support to the Burmese military and who are otherwise eligible for admission into the United States.

(b) FINANCIAL SANCTIONS.—

(1) BLOCKED PROPERTY.—No property or interest in property belonging to a person described in subsection (a)(1) may be transferred, paid, exported, withdrawn, or otherwise dealt with if—

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

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

(2) FINANCIAL TRANSACTIONS.—Except with respect to transactions authorized under Executive Orders 13047 (May 20, 1997) and 13310 (July 28, 2003), no United States person may engage in a financial transaction with the SPDC or with a person described in subsection (a)(1).

(3) PROHIBITED ACTIVITIES.—Activities prohibited by reason of the blocking of property and financial transactions under this subsection shall include the following:

(A) Payments or transfers of any property, or any transactions involving the transfer of anything of economic value by any United States person, including any United States financial institution and any branch or office of such financial institution that is located outside the United States, to the SPDC or to an individual described in subsection (a)(1).

(B) The export or reexport directly or indirectly, of any goods, technology, or services by a United States person to the SPDC, to an individual described in subsection (a)(1) or to any entity owned, controlled, or operated by the SPDC or by an individual described in such subsection.

(c) AUTHORITY FOR ADDITIONAL BANKING SANCTIONS.—

(1) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit or impose conditions on the opening or maintaining in the United States of a correspondent account or payable-through account by any financial institution (as that term is defined in section 5312 of title 31, United States Code) or financial agency that is organized under the laws of a State, territory, or possession of the United States, for or on behalf of a foreign banking institution, if the Secretary determines that the account might be used—

(A) by a foreign banking institution that holds property or an interest in property belonging to the SPDC or a person described in subsection (a)(1); or

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

(2) AUTHORITY TO DEFINE TERMS.—The Secretary of the Treasury may, by regulation, further define the terms used in paragraph (1) for purposes of this section, as the Secretary considers appropriate.

(d) LIST OF SANCTIONED OFFICIALS.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a list of—

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

(B) officials of the SPDC, the Burmese military, or the USDA involved in the repression of peaceful political activity in Burma or in the commission of other human rights abuses, including any current or former officials of the security services and judicial institutions of the SPDC;

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

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

(2) CONSIDERATION OF OTHER DATA.—In preparing the list required under paragraph (1), the President shall consider the data already obtained by other countries and entities that apply sanctions against Burma, such as the Australian Government and the European Union.

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

(4) IDENTIFICATION OF INFORMATION.—The Secretary of State and the Secretary of the Treasury shall devote sufficient resources to the identification of information concerning potential persons to be sanctioned to carry out the purposes described in this Act.

Deadline.
President.

President.

(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prohibit any contract or other financial transaction with any nongovernmental humanitarian organization in Burma.

(f) EXCEPTIONS.—

(1) IN GENERAL.—The prohibitions and restrictions described in subsections (b) and (c) shall not apply to medicine, medical equipment or supplies, food or feed, or any other form of humanitarian assistance provided to Burma.

(2) REGULATORY EXCEPTIONS.—For the following purposes, the Secretary of State may, by regulation, authorize exceptions to the prohibition and restrictions described in subsection (a), and the Secretary of the Treasury may, by regulation, authorize exceptions to the prohibitions and restrictions described in subsections (b) and (c)—

(A) to permit the United States and Burma to operate their diplomatic missions, and to permit the United States to conduct other official United States Government business in Burma;

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

(C) to permit the United States to comply with the United Nations Headquarters Agreement and other applicable international agreements.

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

(h) TERMINATION OF SANCTIONS.—The sanctions imposed under subsection (a), (b), or (c) shall apply until the President determines and certifies to the appropriate congressional committees that the SPDC has—

(1) unconditionally released all political prisoners, including Aung San Suu Kyi and other members of the National League for Democracy;

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

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

(i) WAIVER.—The President may waive the sanctions described in subsections (b) and (c) if the President determines and certifies to the appropriate congressional committees that such waiver is in the national interest of the United States.

SEC. 6. AMENDMENTS TO THE BURMESE FREEDOM AND DEMOCRACY ACT OF 2003.

(a) IN GENERAL.—The Burmese Freedom and Democracy Act of 2003 (Public Law 108-61; 50 U.S.C. 1701 note) is amended by inserting after section 3 the following new section:

“SEC. 3A. PROHIBITION ON IMPORTATION OF JADEITE AND RUBIES FROM BURMA AND ARTICLES OF JEWELRY CONTAINING JADEITE OR RUBIES FROM BURMA.

“(a) DEFINITIONS.—In this section:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

President.
Certification.

National League
for Democracy.

President.
Certification.

50 USC 1701
note.

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

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

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

“(A) jadeite mined or extracted from Burma;

“(B) rubies mined or extracted from Burma; or

“(C) articles of jewelry containing jadeite described in subparagraph (A) or rubies described in subparagraph (B).

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

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

“(B) rubies mined or extracted from a country other than Burma; or

“(C) articles of jewelry containing jadeite described in subparagraph (A) or rubies described in subparagraph (B).

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

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

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

“(C) ARTICLES OF JEWELRY CONTAINING JADEITE OR RUBIES.—The term ‘articles of jewelry containing jadeite or rubies’ means—

“(i) any article of jewelry classifiable under heading 7113 of the HTS that contains jadeite or rubies; or

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

“(5) UNITED STATES.—The term ‘United States’, when used in the geographic sense, means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

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

“(1) IN GENERAL.—Notwithstanding any other provision of law, until such time as the President determines and certifies to the appropriate congressional committees that Burma has met the conditions described in section 3(a)(3), beginning 60 days after the date of the enactment of the Tom Lantos Block Burmese JADE (Junta’s Anti-Democratic Efforts) Act of 2008, the President shall prohibit the importation into the United States of any Burmese covered article.

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

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

President.
Certification.
Effective date.

“(A) The issuance of a draft waiver decision by the Council for Trade in Goods of the World Trade Organization granting a waiver of the applicable obligations of the United States under the World Trade Organization with respect to the provisions of this section and any measures taken to implement this section.

“(B) The adoption of a resolution by the United Nations General Assembly expressing the need to address trade in Burmese covered articles and calling for the creation and implementation of a workable certification scheme for non-Burmese covered articles to prevent the trade in Burmese covered articles.

“(c) REQUIREMENTS FOR IMPORTATION OF NON-BURMESE COVERED ARTICLES.—

President.
Certification.
Effective date.

“(1) **IN GENERAL.**—Except as provided in paragraph (2), until such time as the President determines and certifies to the appropriate congressional committees that Burma has met the conditions described in section 3(a)(3), beginning 60 days after the date of the enactment of the Tom Lantos Block Burmese JADE (Junta’s Anti-Democratic Efforts) Act of 2008, the President shall require as a condition for the importation into the United States of any non-Burmese covered article that—

“(A) the exporter of the non-Burmese covered article has implemented measures that have substantially the same effect and achieve the same goals as the measures described in clauses (i) through (iv) of paragraph (2)(B) (or their functional equivalent) to prevent the trade in Burmese covered articles; and

“(B) the importer of the non-Burmese covered article agrees—

“(i) to maintain a full record of, in the form of reports or otherwise, complete information relating to any act or transaction related to the purchase, manufacture, or shipment of the non-Burmese covered article for a period of not less than 5 years from the date of entry of the non-Burmese covered article; and

“(ii) to provide the information described in clause (i) within the custody or control of such person to the relevant United States authorities upon request.

“(2) EXCEPTION.—

“(A) **IN GENERAL.**—The President may waive the requirements of paragraph (1) with respect to the importation of non-Burmese covered articles from any country with respect to which the President determines and certifies to the appropriate congressional committees has implemented the measures described in subparagraph (B) (or their functional equivalent) to prevent the trade in Burmese covered articles.

Exports.

“(B) **MEASURES DESCRIBED.**—The measures referred to in subparagraph (A) are the following:

“(i) With respect to exportation from the country of jadeite or rubies in rough form, a system of verifiable controls on the jadeite or rubies from mine to exportation demonstrating that the jadeite or rubies were not mined or extracted from Burma, and accompanied by officially-validated documentation certifying the country from which the jadeite or rubies were mined

Records.

or extracted, total carat weight, and value of the jadeite or rubies.

“(ii) With respect to exportation from the country of finished jadeite or polished rubies, a system of verifiable controls on the jadeite or rubies from mine to the place of final finishing of the jadeite or rubies demonstrating that the jadeite or rubies were not mined or extracted from Burma, and accompanied by officially-validated documentation certifying the country from which the jadeite or rubies were mined or extracted.

“(iii) With respect to exportation from the country of articles of jewelry containing jadeite or rubies, a system of verifiable controls on the jadeite or rubies from mine to the place of final finishing of the article of jewelry containing jadeite or rubies demonstrating that the jadeite or rubies were not mined or extracted from Burma, and accompanied by officially-validated documentation certifying the country from which the jadeite or rubies were mined or extracted.

“(iv) Verifiable recordkeeping by all entities and individuals engaged in mining, importation, and exportation of non-Burmese covered articles in the country, and subject to inspection and verification by authorized authorities of the government of the country in accordance with applicable law.

Records.

“(v) Implementation by the government of the country of proportionate and dissuasive penalties against any persons who violate laws and regulations designed to prevent trade in Burmese covered articles.

“(vi) Full cooperation by the country with the United Nations or other official international organizations that seek to prevent trade in Burmese covered articles.

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

“(d) INAPPLICABILITY.—

“(1) IN GENERAL.—The requirements of subsection (b)(1) and subsection (c)(1) shall not apply to Burmese covered articles and non-Burmese covered articles, respectively, that were previously exported from the United States, including those that accompanied an individual outside the United States for personal use, if they are reimported into the United States by the same person, without having been advanced in value or improved in condition by any process or other means while outside the United States.

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

“(e) ENFORCEMENT.—Burmese covered articles or non-Burmese covered articles that are imported into the United States in violation of any prohibition of this Act or any other provision law shall

be subject to all applicable seizure and forfeiture laws and criminal and civil laws of the United States to the same extent as any other violation of the customs laws of the United States.

“(f) SENSE OF CONGRESS.—

“(1) IN GENERAL.—It is the sense of Congress that the President should take the necessary steps to seek to negotiate an international arrangement—similar to the Kimberley Process Certification Scheme for conflict diamonds—to prevent the trade in Burmese covered articles. Such an international arrangement should create an effective global system of controls and should contain the measures described in subsection (c)(2)(B) (or their functional equivalent).

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

“(g) REPORT.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the Tom Lantos Block Burmese JADE (Junta’s Anti-Democratic Efforts) Act of 2008, the President shall transmit to the appropriate congressional committees a report describing what actions the United States has taken during the 60-day period beginning on the date of the enactment of such Act to seek—

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

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

“(C) the negotiation of an international arrangement, as specified in subsection (f)(1).

“(2) UPDATE.—The President shall make continued efforts to seek the items specified in subparagraphs (A), (B), and (C) of paragraph (1) and shall promptly update the appropriate congressional committees on subsequent developments with respect to these efforts.

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

(b) DURATION OF SANCTIONS.—

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

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

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

(3) EFFECTIVE DATE.—

President.

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

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

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

- (1) by striking “prohibitions” and inserting “restrictions”;
- (2) by inserting “or section 3A (b)(1) or (c)(1)” after “this section”; and
- (3) by striking “a product of Burma” and inserting “subject to such restrictions”.

SEC. 7. SPECIAL REPRESENTATIVE AND POLICY COORDINATOR FOR BURMA.

50 USC 1701 note.

President.
Government
organization.

(a) UNITED STATES SPECIAL REPRESENTATIVE AND POLICY COORDINATOR FOR BURMA.—The President shall appoint a Special Representative and Policy Coordinator for Burma, by and with the advice and consent of the Senate.

(b) RANK.—The Special Representative and Policy Coordinator for Burma appointed under subsection (a) shall have the rank of ambassador and shall hold the office at the pleasure of the President. Except for the position of United States Ambassador to the Association of Southeast Asian Nations, the Special Representative and Policy Coordinator may not simultaneously hold a separate position within the executive branch, including the Assistant Secretary of State, the Deputy Assistant Secretary of State, the United States Ambassador to Burma, or the Charge d'affairs to Burma.

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

- (1) promote a comprehensive international effort, including multilateral sanctions, direct dialogue with the SPDC and democracy advocates, and support for nongovernmental organizations operating in Burma and neighboring countries, designed to restore civilian democratic rule to Burma and address the urgent humanitarian needs of the Burmese people;

- (2) consult broadly, including with the Governments of the People's Republic of China, India, Thailand, and Japan, and the member states of ASEAN and the European Union to coordinate policies toward Burma;

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

- (4) consult with Congress on policies relevant to Burma and the future and welfare of all the Burmese people, including refugees; and

(5) coordinate the imposition of Burma sanctions within the United States Government and with the relevant international financial institutions.

50 USC 1701
note.

SEC. 8. SUPPORT FOR CONSTITUTIONAL DEMOCRACY IN BURMA.

(a) IN GENERAL.—The President is authorized to assist Burmese democracy activists who are dedicated to nonviolent opposition to the SPDC in their efforts to promote freedom, democracy, and human rights in Burma.

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

- (1) provide aid to democracy activists in Burma;
- (2) provide aid to individuals and groups conducting democracy programming outside of Burma targeted at a peaceful transition to constitutional democracy inside Burma; and
- (3) expand radio and television broadcasting into Burma.

50 USC 1701
note.

SEC. 9. SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS ADDRESSING THE HUMANITARIAN NEEDS OF THE BURMESE PEOPLE.

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

(b) LICENSES FOR HUMANITARIAN OR RELIGIOUS ACTIVITIES IN BURMA.—Section 5 of the Burmese Freedom and Democracy Act of 2003 (50 U.S.C. 1701 note) is amended—

- (1) by inserting “(a) OPPOSITION TO ASSISTANCE TO BURMA.” before “The Secretary”; and
- (2) by adding at the end the following new subsection:

“(b) LICENSES FOR HUMANITARIAN OR RELIGIOUS ACTIVITIES IN BURMA.—Notwithstanding any other provision of law, the Secretary of the Treasury is authorized to issue multi-year licenses for humanitarian or religious activities in Burma.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, there are authorized to be appropriated \$11,000,000 to the Secretary of State for fiscal year 2008 to support operations by nongovernmental organizations, subject to paragraph (2), designed to address the humanitarian needs of the Burmese people inside Burma and in refugee camps in neighboring countries.

(2) LIMITATION.—

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

(i) SPDC-controlled entities;

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

(iii) entities providing cash or resources to the SPDC, including organizations affiliated with the United Nations.

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

(i) the President determines and certifies to the appropriate congressional committees that such waiver is in the national interests of the United States;

(ii) a description of the national interests need for the waiver is submitted to the appropriate congressional committees; and

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

SEC. 10. REPORT ON MILITARY AND INTELLIGENCE AID TO BURMA.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act and annually thereafter, the Secretary of State shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing a list of countries, companies, and other entities that provide military or intelligence aid to the SPDC and describing such military or intelligence aid provided by each such country, company, and other entity.

(b) MILITARY OR INTELLIGENCE AID DEFINED.—For the purpose of this section, the term “military or intelligence aid” means, with respect to the SPDC—

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

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

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

(4) conducting joint military exercises;

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

(6) the provision of technical support, including computer and software development and installations, networks, and infrastructure development and construction; or

(7) the construction or expansion of airfields, including radar and anti-aircraft systems.

(c) FORM.—The report required under subsection (a) shall be submitted in unclassified form but may include a classified annex and the unclassified form shall be placed on the Department of State’s website.

50 USC 1701
note.

Public
information.
Website.

SEC. 11. SENSE OF CONGRESS ON INTERNATIONAL ARMS SALES TO BURMA.

It is the sense of Congress that the United States should lead efforts in the United Nations Security Council to impose a mandatory international arms embargo on Burma, curtailing all sales of weapons, ammunition, military vehicles, and military aircraft to Burma until the SPDC releases all political prisoners, restores constitutional rule, takes steps toward inclusion of ethnic minorities in political reconciliation efforts, and holds free and fair elections to establish a new government.

SEC. 12. REDUCTION OF SPDC REVENUE FROM TIMBER.

50 USC 1701
note.
Deadline.

(a) REPORT.—Not later than one year after the date of the enactment of this Act and annually thereafter, the Secretary of State, in consultation with the Secretary of Commerce, and other Federal officials, as appropriate, shall submit to the appropriate congressional committees a report on Burma’s timber trade containing information on the following:

(1) Products entering the United States made in whole or in part of wood grown and harvested in Burma, including measurements of annual value and volume and considering both legal and illegal timber trade.

(2) Statistics about Burma's timber trade, including raw wood and wood products, in aggregate and broken down by country and timber species, including measurements of value and volume and considering both legal and illegal timber trade.

(3) A description of the chains of custody of products described in paragraph (1), including direct trade streams from Burma to the United States and via manufacturing or trans-shipment in third countries.

(4) Illegalities, abuses, or corruption in the Burmese timber sector.

(5) A description of all common consumer and commercial applications unique to Burmese hardwoods, including the furniture and marine manufacturing industries.

(b) RECOMMENDATIONS.—The report required under subsection (a) shall include recommendations on the following:

(1) Alternatives to Burmese hardwoods for the commercial applications described in paragraph (5) of subsection (a), including alternative species of timber that could provide the same applications.

(2) Strategies for encouraging sustainable management of timber in locations with potential climate, soil, and other conditions to compete with Burmese hardwoods for the consumer and commercial applications described in paragraph (5) of subsection (a).

(3) The appropriate United States and international customs documents and declarations that would need to be kept and compiled in order to establish the chain of custody concerning products described in paragraphs (1) and (3) of subsection (a).

(4) Strategies for strengthening the capacity of Burmese civil society, including Burmese society in exile, to monitor and report on the SPDC's trade in timber and other extractive industries so that Burmese natural resources can be used to benefit the majority of Burma's population.

Deadline.
50 USC 1701
note.

SEC. 13. REPORT ON FINANCIAL ASSETS HELD BY MEMBERS OF THE SPDC.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act and annually thereafter, the Secretary of the Treasury, in consultation with the Secretary of State, shall submit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Ways and Means of the House of the Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Finance of the Senate a report containing a list of all countries and foreign banking institutions that hold assets on behalf of senior Burmese officials.

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

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

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

(c) FORM.—The report required under subsection (a) shall be submitted in unclassified form but may include a classified annex. The report shall also be posted on the Department of Treasury's website not later than 30 days of the submission to Congress of the report. To the extent possible, the report shall include the names of the senior Burmese officials and the approximate value of their holdings in the respective foreign banking institutions and any other pertinent information.

Public
information.
Website.
Deadline.

SEC. 14. UNOCAL PLAINTIFFS.

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

Thailand.
Refugees.
50 USC 1701
note.

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

President.
Deadline.

SEC. 15. SENSE OF CONGRESS WITH RESPECT TO INVESTMENTS IN BURMA'S OIL AND GAS INDUSTRY.

50 USC 1701
note.

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

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

(2) The Congressional Research Service estimates that the Yadana pipeline provides at least \$500,000,000 in annual revenue for the Burmese Government.

(3) The natural gas that transits the Yadana pipeline is delivered primarily to Thailand, representing about 20 percent of Thailand's total gas supply.

(4) The executive branch has in the past exempted investment in the Yadana pipeline from the sanctions regime against the Burmese Government.

(5) Congress believes that United States companies ought to be held to a high standard of conduct overseas and should avoid as much as possible acting in a manner that supports repressive regimes such as the Burmese Government.

(6) Congress recognizes the important symbolic value that divestment of United States holdings in Burma would have on the international sanctions effort, demonstrating that the United States will continue to lead by example.

(b) STATEMENT OF POLICY.—

(1) Congress urges Yadana investors to consider voluntary divestment over time if the Burmese Government fails to take meaningful steps to release political prisoners, restore civilian constitutional rule and promote national reconciliation.

(2) Congress will remain concerned with the matter of continued investment in the Yadana pipeline in the years ahead.

(3) Congress urges the executive branch to work with all firms invested in Burma's oil and gas sector to use their influence to promote the peaceful transition to civilian democratic rule in Burma.

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

(1) communicate to the Burmese Government, military and business officials, at the highest levels, concern about the lack of genuine consultation between the Burmese Government and its people, the failure of the Burmese Government to use its natural resources to benefit the Burmese people, and the military's use of forced labor;

(2) publicly disclose and deal with in a transparent manner, consistent with legal obligations, its role in any ongoing investment in Burma, including its financial involvement in any joint production agreement or other joint ventures and the amount of their direct or indirect support of the Burmese Government; and

(3) work with project partners to ensure that forced labor is not used to construct, maintain, support, or defend the project facilities, including pipelines, offices, or other facilities.

Approved July 29, 2008.

LEGISLATIVE HISTORY—H.R. 3890:

HOUSE REPORTS: No. 110-418, Pt. 1 (Comm. on Foreign Affairs).
CONGRESSIONAL RECORD:

Vol. 153 (2007): Dec. 11, considered and passed House.

Dec. 19, considered and passed Senate, amended.

Vol. 154 (2008): July 15, House concurred in Senate amendments with
amendments pursuant to H. Res. 1341.

July 22, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):
July 30, Presidential remarks.

