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# U.S. Restrictions on Relations with Burma

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# Summary

Major changes in Burma's political situation since 2016 have raised questions among some Members of Congress concerning the appropriateness of U.S. policy in Burma in general, and the current restrictions on relations with Burma (Myanmar) in particular. During the 115th Congress, two bills were introduced—the Burma Unified through Rigorous Military Accountability Act of 2018 (H.R. 5819; the BURMA Act of 2018) and the Burma Human Rights and Freedom Act of 2018 (S. 2060)—that would reformulate U.S. policy and the restrictions on bilateral relations.

In November 2015, Burma held nationwide parliamentary elections from which Aung San Suu Kyi's National League for Democracy (NLD) emerged as the party with an absolute majority in both chambers of Burma's Union Parliament. The new government subsequently appointed Aung San Suu Kyi to the newly created position of State Counselor, as well as Foreign Minister. While the NLD controls the Union Parliament and the executive branch, the Burmese military, also known as the Tatmadaw, continues to exercise significant power under provisions of Burma's 2008 constitution. For example, 25% of the seats in both chambers of the Union Parliament are military officers appointed by the Tatmadaw's Commander in Chief Senior General Min Aung Hlaing, creating a voting bloc that can prevent any changes in the constitution.

On October 7, 2016, former President Obama revoked several executive orders pertaining to sanctions on Burma, and waived restrictions required by Section 5(b) of the Tom Lantos Block Burmese JADE (Junta Anti-Democratic Efforts) Act of 2008 (P.L. 110-286), removing most of the economic restrictions on relations with Burma. On December 2, 2016, he issued Presidential Determination 2017-04, ending restrictions on U.S. assistance to Burma as provided by Section 570(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997. Various noneconomic restrictions, however, remain in effect, including bans on providing visas to certain Burmese nationals and other restrictions on U.S. assistance to Burma.

Certain events since 2016, however, have led some Members of Congress to call for the reinstatement of some of the waived sanctions and/or the imposition of new restrictions on relations with Burma. One of the more prominent events was the "clearance operation" in northern Rakhine State in late 2017, during which Burma's security forces allegedly committed serious human rights abuses against the Rohingya. A U.N. fact-finding mission (and other investigations) say the security force's actions may constitute genocide, crimes against humanity, and/or war crimes. Burma's security forces have also been accused of committing crimes against humanity and war crimes against civilians in Kachin and Shan State between 2011 and 2018 as part of its ongoing conflict with various ethnic armed organizations (EAOs).

Congress will have various opportunities to weigh in on U.S. policy toward Burma, including what restrictions, if any, to include in such a policy. In recent years, Congress has restricted foreign assistance to Burma in annual appropriations acts, such as the Consolidated Appropriations Act, 2018 (P.L. 115-141). In addition, Congress may consider whether to reexamine existing sanction laws on Burma in light of recent developments, to determine if it is time to amend, modify, replace, and/or repeal provisions in those laws.

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# Introduction

Between 1989 and 2008, Congress passed several laws placing political and economic sanctions on Burma's military junta as part of a policy to identify individuals responsible for repression in Burma and hold them accountable for their actions, foster the reestablishment of a democratically elected civilian government, and promote the protection of human rights. Various developments in Burma between 2010 and 2016 led the Obama Administration and others to perceive positive developments toward the restoration of a democratically-elected civilian government in that nation after nearly five decades of military rule. Based on that perception, the Obama Administration waived most of the sanctions on Burma, particularly after Aung San Suu Kyi and the National League for Democracy won the 2015 parliamentary elections and a new NLD-controlled Union Parliament took office in April 2016.

Certain events since 2016, however, have led some Members of Congress and others to call for the reinstatement of some of the waived sanctions and/or the imposition of new restrictions on relations with Burma. One of the more prominent events was the "clearance operation" in northern Rakhine State in late 2017, during Burma's security forces allegedly committed serious human rights abuses against the Rohingya including murder, torture, and rape. A U.N. fact-finding mission (and other investigations) have determined that these human rights abuses may constitute genocide, crimes against humanity, and/or war crimes.[1] Burma's security forces have also been accused of committing crimes against humanity and war crimes against civilians in Kachin and Shan State between 2011 and 2018 as part of its ongoing conflict with various ethnic armed organizations (EAOs). Other events that have contributed to congressional reconsideration of U.S. policy in Burma are: the lack of progress in peace talks between the Aung San Suu Kyi's government, the Burmese military, and the EAOs; and the continuing arrest, detention, and conviction of "political prisoners," including the conviction of two Burmese reporters for their coverage of the alleged atrocities in Rakhine State [2]

The Trump Administration has utilized the Global Magnitsky Act to impose "limited targeted sanctions" on five military officers and two military units it has determined were responsible for serious human rights abuses in Kachin, Rakhine, and Shan State. To some Members of Congress, this response is insufficient given the severity of the alleged human rights violations, as well as the Burmese military's apparent intransigence in the ongoing ceasefire negotiations. Two bills have been introduced during the 115th Congress, the Burma Unified through Rigorous Military Accountability (BURMA) Act of 2018 (H.R. 5819) and the Burma Human Rights and Freedom Act of 2018 (S. 2060), that would redefine U.S. policy in Burma and impose greater restrictions on bilateral relations. In addition, both the House and Senate committee versions of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2019, (H.R. 6385 and S. 3108) would continue the practice of placing restrictions on the use of appropriations in Burma.

[1] For more about the alleged human rights violations in Kachin, Rakhine, and Shan State, see CRS In Focus IF10970, *U.N. Report Recommends Burmese Military Leaders Be Investigated and Prosecuted for Possible Genocide*, by Michael F. Martin, Matthew C. Weed, and Colin Willett, and CRS Report R45388, *Burmese Security Forces and Personnel Implicated in Serious Human Rights Abuses and Accountability Options*, by Michael F. Martin.

[2] For more about the stalled peace talks, see CRS In Focus IF10808, *Burma's Peace Process: Narrowing Opportunities in 2018*, by Michael F. Martin. For more about "political prisoners" in Burma,, see CRS Report R44804, *Burma's Political Prisoners and U.S. Policy: In Brief*, by Michael F. Martin.

# Brief History of Burma and U.S. Sanctions

From 1948 to 1966, the Union of Burma was ruled by a democratically-elected civilian government representing the goals and interests of the nation's Bamar majority and its various ethnic minorities. The fragile federated state was based on the provisions of the Panglong Agreement signed by Burma's revolutionary leader, General Aung San (father of Aung San Suu Kyi), and representatives of some of the nation's larger ethnic minorities – the Chin, the Kachin, and the Shan. The ethnic-based coalition proved to be unstable, and on March, 2, 1962, Burma's military, known as the Tatmadaw, staged a coup d'état, led by General Ne Win. Following the coup, several of Burma's ethnic minorities organized militias to protect themselves from Tatmadaw and Bamar domination.

From 1962 to 2011, Burma was ruled by a military junta that denied the people of Burma the right to select the government of their choice and many of their internationally recognized human rights, such as freedom of speech and freedom of association. Throughout this period, a low-grade civil war raged off and on between the Tatmadaw and over 20 different ethnic armed organizations (EAOs).

Despite the military coup, the political repression, and the on-going civil war, the United States established and maintained normal diplomatic relations with the military junta, including relatively close military-to-military relations.[3] Between 1989 and 2008, Congress passed a series of laws imposing diplomatic and economic sanctions on Burma's military junta, in response to its violent suppression of democratic protests in 1988, 1990, 2003, and 2007.[4] Two of the sanctions laws were the Burmese Freedom and Democracy Act of 2003 (BFDA, P.L. 108-61) and the JADE Act, which imposed various political and economic restrictions on U.S. relations with Burma.

In 2008, Burma's military junta, then known as the State Peace and Development Council (SPDC), began a process to transform the nation's government into what it called a "disciplined democracy." On May 8, 2008, the SPDC held a national referendum on a new constitution that would establish a mixed civilian/military government. Many observers viewed the results of the referendum—in which over 90% of the voters supported the new constitution—as fraudulent.[5] On November 7, 2010, the SPDC held parliamentary elections that were boycotted by many political parties, including Aung San Suu Kyi's National League for Democracy (NLD). The pro-military Union Solidarity and Development Party (USDP) won nearly 80% of the contested seats (25% of the seats in Burma's Union Parliament are not contested, but rather under the 2008 constitution are appointed by the Commander in Chief of Defence Services). The new Union Parliament appointed SPDC Prime Minister Lieutenant General Thein Sein as President. He was sworn in on March 30, 2011, after the SPDC officially transferred power to the new government.

[3] Various factors point to continuity of diplomatic relations with Burma following the 1962 coup. The United States continued to appoint ambassadors to Burma until 1990. In the 1970s, the United States provided aid to Burma's military junta as part of its anti-opium efforts. In the 1980s, Burma was the largest beneficiary in Southeast Asia of the U.S. International Military Education and Training (IMET) program.

[4] See **Appendix**. For more about the history of the imposition of sanctions, see CRS Report R41336, *U.S. Sanctions on Burma*, by Michael F. Martin.

[5] For example, the Public International Law & Policy Group (PILPG) published a report of Burma's constitutional referendum on May 26, 2008, sharply criticizing the conduct of the plebiscite, calling the results, "Neither Free nor Fair." (The Public International Law & Policy Group, *Burmese Constitutional Referendum: Neither Free Nor Fair*, May 2008). For more about the circumstances under which the constitutional referendum was held, see CRS Report RL34481, *Cyclone Nargis and Burma's Constitutional Referendum*, by Michael F. Martin and Rhoda Margesson.

Following the establishment of a new government in Burma under the provisions of the 2008 constitution, the Obama Administration adopted a new policy of greater engagement while maintaining existing sanctions.[6] President Obama utilized the waiver provisions in sanctions laws to waive the enforcement of some of the sanctions, in part in response to President Thein Sein's undertaking some political reforms and releasing many political prisoners.[7]

On November 8, 2015, Burma held nationwide parliamentary elections, which the NLD won nearly 80% of the contested seats.[8] The Union Parliament chose Htin Kyaw, a long-standing NLD member and close friend of Aung San Suu Kyi, as President. Aung San Suu Kyi was subsequently appointed to the newly created position of State Counselor, as well as Foreign Minister. During Aung San Suu Kyi's September 2016 visit to Washington, DC, President Obama announced Burma's reinstatement in the U.S. Generalized System of Preferences (GSP) program and his intention to revoke several executive orders that enforced many of the sanctions on Burma.[9] President Obama's pledge to revoke the executive orders was fulfilled by the release of E.O. 13472 on October 7, 2016. On December 2, 2016, he issued Presidential Determination 2017-04, ending restrictions on U.S. assistance to Burma as provided by Section 570(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997.[10]

Several noneconomic restrictions as detailed in the sections that follow, however, remain in effect, including:

- a prohibition on issuing visas to enter the United States to certain categories of Burmese officials;
- restrictions limiting the types of U.S. assistance to Burma; and
- an embargo on arms sales to Burma.

In addition, Congress has set limits on bilateral relations in appropriations legislation. Section 7043(a) of the Consolidated Appropriations Act, 2018 (P.L. 115-141), for example, places a number of restrictions on bilateral, international security, and multilateral assistance to Burma. Similar restrictions were included in the Consolidated Appropriations Act, 2012 (P.L. 112-74); the Consolidated Appropriations Act, 2014 (P.L. 113-76); the Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235); the Consolidated Appropriations Act, 2016 (P.L. 114-113); and the Consolidated Appropriations Act, 2017 (P.L. 115-31). The pending appropriations legislation for the State Department in FY2019 – H.R. 6385 and S. 3108 – also contain possible restrictions on relations with Burma.

[6] For more information, see CRS Report R43035, *U.S. Policy Towards Burma: Issues for the 113th Congress*, by Michael F. Martin.

[7] For more information about political prisoners in Burma, See CRS Report R42363, *Burma's Political Prisoners and U.S. Sanctions*, by Michael F. Martin.

[8] For more information about the election, see CRS Report R44436, *Burma's 2015 Parliamentary Elections: Issues for Congress*, by Michael F. Martin.

[9] White House, "Joint Statement between the Republic of the Union of Myanmar and the United States of America," press release, September 14, 2016. The revoked Executive Orders were E.O. 13047, E.O. 13310, E.O. 13448, E.O. 13464, E.O. 13619, and E.O. 13651.

[10] Executive Office of the President, "Presidential Determination Pursuant to Section 570(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997," Presidential Determination 2017-04, December 2, 2016.

# U.S. Policy Goals in Burma Sanction Legislation

At the time it passed legislation imposing sanctions on Burma, Congress articulated goals of U.S. policy toward Burma and, by extension, how the sanctions might facilitate the achievement of those goals. Among the goals stated in those laws were:

- the establishment of a constitutional democratic civilian government;
- the protection and/or the improvement of internationally recognized human rights;
- the release of political prisoners;
- greater cooperation with U.S. counternarcotics efforts;
- the alleviation of the suffering of Burmese refugees and the provision of humanitarian assistance to the Burmese people; and
- the identification of individuals responsible for repression in Burma and holding them accountable for their actions.

Progress has been made on some of these goals, but arguably none have been fully achieved.

Circumstances in Burma have raised a number of questions for Congress regarding U.S. policy and the restrictions on relations, such as the following:

- Should waived restrictions be reinstated – or new restrictions be imposed – in light of the alleged serious human rights violations against the Rohingya and other ethnic minorities in Burma?
- To what extent did the formation of the NLD-led government advance the goals of U.S. policy?
- Did the sanctions on Burma contribute to the political changes that occurred between 2008 and 2015?
- Are the previously stipulated goals of U.S. policy toward Burma still suitable given the current situation in Burma and in the region? If not, what are the appropriate new or revised goals?
- Are the existing restrictions on relations with Burma consistent with U.S. goals in Burma? If not, how should they be changed or altered to make them consistent?
- Will the continuation or renewal of restrictions on relations with Burma lead to the achievement of U.S. goals in Burma?

# Restrictions in Place

Following President Obama's release of E.O. 13472 on October 7, 2016, and Presidential Determination 2017-04 on December 2, 2016, the restrictions on relations with Burma that remain in place consist of restrictions on the issuance of visas to certain Burmese nationals, limits on U.S. assistance to Burma contained in the Consolidated Appropriations Act, 2018 (P.L. 115-141), and various restrictions on U.S. relations with Burma's military. In addition, the Trump Administration has utilized the Global Magnitsky Act (22 U.S.C. 2656) to apply visa and economic sanctions to five Burmese military officers and two military units.

## Visa Restrictions

Section 570(a)(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1997 (P.L. 104-208) states, "Except as required by treaty obligations or to staff the Burmese mission to the United States, the United States should not grant entry visas to any Burmese government official." Section 6 of the Burmese Freedom and Democracy Act (BFDA; P.L. 108-61) expanded the discretionary authority to deny entry visas to "the former and present leadership" of the SPDC and USDA. Neither the President nor the State Department has used the authority granted by these two laws.

Section 5(a)(1) of the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (JADE Act; P.L. 110-286) states:

> 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.[11]
>
> (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).

The JADE Act authorizes the President to waive the visa ban if "the President determines and certifies in writing to Congress that travel by the person seeking such a waiver is in the national interest of the United States." The Obama Administration and the Trump Administration on many occasions have issued such presidential waivers.

## Restrictions on U.S. Assistance

The Consolidated Appropriations Act, 2018 (P.L. 115-141) contains several restrictions on U.S. programs and activities in Burma. Section 7034(b)(2) prohibits the appropriation of funds, to Burma and other countries, "to support any military training or operations that include child soldiers," or for "tear gas, small arms, light weapons, ammunition, or other items for crowd control purposes for foreign security forces that use excessive force to repress peaceful expression, association, or assembly in countries undergoing democratic transition." Section 7043(a) places restrictions on assistance to Burma, including the following:

- Bilateral economic assistance (Title III):
  - "may not be made available to any individual or organization if the Secretary of State has credible information that such individual or organization has committed a gross violation of human rights, including against Rohingya and other minority groups, or that advocates violence against ethnic or religious groups or individuals in Burma";
  - "may not be made available to any organization or entity controlled by the armed forces of Burma"; and

[11] The Union Solidarity and Development Association (USDA) was formed in 1992 by Burma's military junta to operate as the eyes and ears of the military junta at the local level. In 2010, the USDA was transformed into a political party, the Union Solidarity and Development Party (USDP).

    - "may only be made available for programs to support the return of Rohingya, Karen, and other refugees and internally displaced persons to their locations of origin or preference in Burma if such returns are voluntary and consistent with international law."
- International Security Assistance (Title IV):
    - prohibits funding for International Military Education and Training (IMET) and Foreign Military Financing Program (FMF Program) in Burma; and
    - restricts Department of State consultations with the armed forces of Burma "only on human rights and disaster response in a manner consistent with the prior fiscal year, and following consultation with the appropriate congressional committees."

Multilateral Assistance (Title VI) is restricted to projects "carried out in accordance with the requirements of section 7029(b)(2) of this Act."

Section 7029(b) requires the Secretary of the Treasury to instruct the U.S. executive director of each international financial institution to vote against any loan or financing for any project unless the project:

- provides for accountability and transparency;
- is developed and carried out in accordance with best practices regarding environmental conservation, cultural protection, and empowerment of local populations (including indigenous communities);
- does not "provide incentives for, or facilitate, forced displacement"; and
- does not "involve enterprises owned or controlled by the armed forces."

## Restrictions on Relations with Burma's Military

In addition to the restrictions in P.L. 115-141, the United States has other restrictions on relations with Burma's military. These include the following:

- **Prohibition on the Sale of U.S. Military Equipment**—On June 9, 1993, the State Department's Bureau of Political-Military Affairs issued Public Notice 1820 suspending "all export licenses and other approvals to export or otherwise transfer defense articles or defense services to Burma."[12]
- **Ban on the Provision of Visas to Military Leaders**—Section 5(a)(1)(A) of the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (JADE Act; P.L. 110-286) states that former and present leaders of the Burmese military "shall be ineligible for a visa to travel to the United States." Section 5(a)(1)(B) of the same act also makes officials of the Burmese military "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" ineligible for a visa.
- **Prohibition on Military Training or Operations that Include Child Soldiers**—From 2010 to 2016, and again in 2018, Burma was designated by the State Department as a country whose government has armed forces or

[12] Department of State, "Suspension of Munitions Export Licenses to Burma," 58 *Federal Register* 33293, June 16, 1993.

government-supported armed groups that recruit and use child soldiers.[13] Pursuant to the Child Soldiers Prevention Act of 2008 (CSPA, P.L. 110-457), certain security assistance and commercial licensing of military equipment with Burma (including IMET, FMF, Excess Defense Articles, and Peacekeeping Operations, as well as the issuance of licenses for direct commercial sales of military equipment) were prohibited, unless the President issues a waiver.[14]

However, Section 7034(b)(1) of P.L. 115-141 states, "Funds appropriated by this Act should not be used to support any military training or operations that include child soldiers." Given that the State Department has identified Burma as a nation that recruits and uses child soldiers, this section would apparently preclude military training or operations with either the entire Burmese military, or those units within it that include child soldiers.

## Global Magnitsky Sanctions

In late 2017, the Tatmadaw conducted a "clearance operation" in northern Rakhine State in response to attacks on security outposts along the border with Bangladesh, during which Burma's security forces may have committed genocide, crimes against humanity, and war crimes.[15] The "clearance operation" resulted in the exodus of over 700,000 Rohingya from Burma into Bangladesh. Satellite imagery confirms that over 300 Rohingya villages were partially or totally destroyed during the Tatmadaw's operation. The United Nations and other organizations have interviewed Rohingya survivors, who recount stories of mass killings, torture and rape perpetrated by Tatmadaw soldiers and other Burmese security officers.[16]

The Trump Administration has condemned the initial attacks on the Burmese security outposts, as well as the Tatmadaw's response to attacks, characterizing the "clearance operations" as "ethnic cleansing." On December 21, 2017, the Department of the Treasury placed Major General Maung Maung Soe, Burma's Western Commander during the "clearance operations," on its Specially Designated Nationals and Blocked Persons (SDN) List under the Global Magnitsky Act "for his command of forces involved in serious human rights abuses in northern Rakhine State."[17] As a result, General Maung Maung Soe will not be granted a visa to enter the United States, any assets he may have in U.S. financial institutions have been frozen, and he is to be denied financial services by any U.S. entity or person.

On August 17, 2018, the Department of the Treasury added four more Burmese senior military officers—Lt. General Aung Kyaw Zaw, Major General Khin Hlaing, Major General Khin Maung Soe, and Brigadier General Thura San Lwin—plus two military units—the 33rd Light Infantry

[13] The State Department did not designate Burma in 2017.

[14] On September 28, 2016, President Obama issued such a waiver for Burma.

[15] For more about events of late 2017, see CRS Report R45016, *The Rohingya Crises in Bangladesh and Burma*, coordinated by Michael F. Martin.

[16] For more about the alleged human rights abuses, see CRS In Focus IF10970, *U.N. Report Recommends Burmese Military Leaders Be Investigated and Prosecuted for Possible Genocide*, by Michael F. Martin, Matthew C. Weed, and Colin Willett, and CRS Report R45388, *Burmese Security Forces and Personnel Implicated in Serious Human Rights Abuses and Accountability Options*, by Michael F. Martin.

[17] Department of the Treasury, "United States Sanctions Human Rights Abusers and Corrupt Actors Across the Globe," press release, December 21, 2017.

Division and the 99th Light Infantry Division—to its SDN list under the Global Magnitsky Act.[18] The five officers and two units are subject to the same sanctions as General Maung Maung Soe.

# Waived or Lapsed Restrictions

As noted above, some of the laws imposing sanctions on Burma also include provisions whereby the President could waive, temporarily or permanently, the sanctions under certain conditions. In addition, some of the laws also contain provisions by which the President can terminate the sanctions. President Obama waived several restrictions, but also stated that waivers could be reversed, and the restrictions reimposed, if conditions in Burma so warrant.[19] On December 2, he issued Presidential Determination 2017-04, terminating the restrictions on bilateral assistance to Burma contained in Section 570(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (P.L. 104-208).[20] In addition, Congress has permitted certain trade restrictions contained in Sections 3 and 3A of the BFDA (as amended) to lapse by not passing the necessary annual renewal resolution.

## Economic Restrictions

In the past, Congress and the executive branch placed several economic restrictions on relations with Burma that have been subsequently terminated, waived, or suspended, including:

- a general ban on the import of goods from Burma;
- a ban on the import of Burmese jadeite and rubies, and products containing Burmese jadeite and rubies;
- a ban on the import of goods from certain Burmese companies;
- the "freezing" of the assets of certain Burmese nationals;
- a prohibition on providing financial services to certain Burmese nationals;
- restrictions on U.S. investments in Burma;
- restrictions on bilateral assistance to Burma; and
- restrictions on U.S. support for multilateral assistance to Burma.

### Ban on Import of Products of Burma

Section 3 and 3A of the BFDA (as amended) banned the importation of "any article that is a product of Burma," goods and services from certain Burmese companies, jadeite and rubies from Burma, and articles of jewelry containing jadeite or rubies from Burma. This ban, however, was subject to annual renewal by Congress passing a resolution as stipulated in Section 9(b) of the same act. From 2004 to 2012, Congress passed the annual renewal resolution, but has not done so since. As a consequence, these restrictions contained in Section 3 and 3A of the BFDA have lapsed, but could be reinstated by the passage of the required resolution.

[18] Department of the Treasury, " Global Magnitsky Designations," press release, August 17, 2018.

[19] For example, in his statement of May 17, 2012, President Obama said, "We are also maintaining our current authorities to help ensure further reform and to retain the ability to reinstate selected sanctions if there is backsliding." The White House, "Statement by the President on Burma," press release, May 17, 2012, https://www.obamawhitehouse.archives.gov/the-press-office/2012/05/17/statement-president-burma.

[20] White House, "Presidential Determination—Pursuant to Section 570(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997," press release, December 2, 2016.

On August 7, 2013, President Obama issued Executive Order 13651, reinstating the ban on the import of jadeite and rubies from Burma, and articles of jewelry containing jadeite or rubies from Burma. Executive Order 13651, however, was revoked on October 7, 2016, when President Obama issued Executive Order 13742, thereby terminating the ban on the import of jadeite and rubies from Burma.

### "Freezing" the Assets of Certain Burmese Nationals

Section 5(b)(1) of the JADE Act blocked the transferal, payment, export, withdrawal, or other handling of property or interest in property belonging to a person described in Section 5(a)(1) of the act that is "located in the United States or within the possession or control of a U.S. person"[21] (including the overseas branch of a U.S. person); or "comes into the possession or control of a U.S. person after the date of the enactment of this Act" (July 29, 2008). In Executive Order 13742 on October 7, 2016, President Obama "determined and certified" to Congress that "it is in the national interest of the United States" to waive the sanctions in Section 5(b) of the JADE Act, pursuant to Section 5(i) of that act.

### Restrictions on the Provision of Financial Services

As described above, Section 5(b) of the JADE Act freezes the assets of persons described by Section 5(a)(1) of the act, and bars the payment or transfer of any property, or "any transactions involving the transfer of anything of economic value," as well as the "export or reexport directly or indirectly, of any goods, technology, or services" to persons described by Section 5(a)(1) of the act, or to "any entity, owned, controlled, or operated by the SPDC or by an individual described in such subsection." Pursuant to Section 5(i) of the same law, President Obama determined and certified to Congress on October 7, 2016, in Executive Order 13742 that it was in the national interest of the United States to waive these sanctions.

### Ban on Investment in Burma

Section 570(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1997 (P.L. 104-208) states:

> The President is hereby authorized to prohibit, and shall prohibit United States persons from new investment in Burma, if the President determines and certifies to Congress that, after the date of enactment of this Act, the Government of Burma has physically harmed, rearrested for political acts, or exiled Daw Aung San Suu Kyi or has committed large-scale repression of or violence against the Democratic opposition.

Pursuant to Section 570(e) of the same act, the Department of State (having been delegated authority by President Obama) waived the investment restrictions on Section 570(b) effective July 11, 2012, having determined that it would be contrary to the national security interests of the United States to continue the restrictions.[22]

[21] For purposes of this act, a U.S. person is defined, by Section 3(6) as "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."

[22] Department of State, "Allowing New Investment in Burma," 77 *Federal Register* 62596, October 15, 2012.

## Restrictions on Bilateral Assistance

Section 570(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1997 (P.L. 104-208) restricted bilateral assistance to Burma to the following:

> (A) humanitarian assistance,
>
> (B) subject to the regular notification procedures of the Committees on Appropriations, counter-narcotics assistance under chapter 8 of part I of the Foreign Assistance Act of 1961, or crop substitution assistance, if the Secretary of State certifies to the appropriate congressional committees that—
>
> (i) the Government of Burma is fully cooperating with United States counter-narcotics efforts, and
>
> (ii) the programs are fully consistent with United States human rights concerns in Burma and serve the United States national interest, and
>
> (C) assistance promoting human rights and democratic values.

The act also provided that these restrictions were to remain in effect "[u]ntil such time as the President determines and certifies to Congress that Burma has made measurable and substantial progress in improving human rights practices and implementing democratic government."

On December 2, 2016, President Obama issued Presidential Determination 2017-04, providing such a determination and certification to Congress, and thereby terminating the restrictions on bilateral assistance contained in Section 570(a).

## Restrictions on Multilateral Assistance

Section 307(a) of the Foreign Assistance Act of 1961 (P.L. 87-195, as amended) withholds the "United States proportionate share" of the funding for certain international organizations' programs in Burma (as well as several other nations). Section 307(c) exempts the Atomic Energy Agency and the United Nations Children's Fund (UNICEF). Organizations subject to the restriction include the United Nations Development Program, the United Nations Environmental Program, the World Meteorological Organization, and a number of other U.N. programs. Section 7017 of the Consolidated Appropriations Act, 2016 (P.L. 114-113), however, included the statement that "the requirement to withhold funds for programs in ***Burma*** under section 307(a) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated by this Act." This exemption was extended into FY2017 by P.L. 115-31 and FY2018 by P.L. 115-141.

Section 5 of the 2003 BFDA required the U.S. executive director of each international financial institution (IFI) in which the United States participates to vote against the extension of any loan, financial or technical assistance to Burma.

In September 2012, Congress passed P.L. 112-192, granting the President the authority to waive U.S. opposition to IFI assistance to Burma required under Section 5 of the 2003 BFDA if the President determines that doing so is in the national interest of the United States. President Obama issued a memorandum on October 10, 2012, delegating the authority granted by P.L. 112-192 to Secretary of State Clinton, who then issued a determination stating that "it is in the national interest of the United States to support assistance for Burma."[23]

[23] Department of State, "Determination Related to United States Support for Assistance Provided by International Financial Institutions for Burma," October 12, 2012.

# Perspective of the NLD-Led Government

The NLD-led government and Aung San Suu Kyi have given mixed and sometimes contradictory statements on U.S. restrictions on relations with Burma. In November 2015, when asked if she would like to see U.S. sanctions lifted, Aung San Suu Kyi reportedly said, "Well, with a genuinely democratic government in power, I do not see why they would need to keep sanctions on."[24] In March 2016, however, Han Thar Myint, an NLD central executive committee member, reportedly said that the NLD will not push for a lifting of U.S. restrictions given that the military retains considerable power in the government, as well as in Burma's economy.[25]

In a joint press availability after her meeting with Secretary of State Kerry on May 22, 2016, Aung San Suu Kyi stated:

> [W]e're not afraid of sanctions. We're not afraid of scrutiny. We believe that if we are going along the right path, all sanctions should be lifted in good time.… I understand and I accept and I believe that United States is a friend, and are not keeping the sanctions to hurt us.… I'm sure that the time will come soon where the United States will rule that this is not the time for sanctions.[26]

Ambiguity over the NLD-led government's position on U.S. restrictions on relations with Burma arose during Aung San Suu Kyi's visit to Washington, DC, in September 2016. In a press statement following their meeting in the Oval Office on September 14, 2016, Aung San Suu Kyi stated, "We think that the time has now come to remove all the sanctions that hurt us economically, because our country is in a position to open up to those who are interested in taking part in our economic enterprises."[27] In subsequent meetings with Members of Congress, however, Aung San Suu Kyi reportedly said that she had hoped that some restrictions on relations with high-level Burmese military officers and businesses owned or controlled by the Burmese military could remain in effect, but also reportedly said that she had been told by U.S. officials that such a selective retention of restrictions was not possible.

In general, Aung San Suu Kyi and Senior General Min Aung Hlaing have denied claims that Burma's security forces committed serious human rights abuses in Rakhine State, or elsewhere in Burma as part of its conflict with the EAOs. As a result, they have opposed the imposition of sanctions on Burma in response to the events in Rakhine State, including the Treasury's placement of five senior military officers and two military units on its SDN list.

# Congressional Considerations

Congress may examine a number of different factors as it considers whether to alter U.S. restrictions on relations with Burma. One question is whether to reassess the goals of U.S. policy toward Burma, the prospects for achieving them, and whether there are contradictions among them. Another factor is how to evaluate the current political situation in Burma, and whether further political and economic reforms are likely. Congress may also examine to what extent

[24] Lally Weymouth, "Aung San Suu Kyi: 'I'm Going to Be the One Who Is Managing the Government,'" *Washington Post*, November 19, 2015.

[25] Shibani Mahtani, "U.S. Companies Caught in Sanctions Gray-Zone in Myanmar," *Wall Street Journal*, March 28, 2016.

[26] Department of State, "Joint Press Availability with Burmese Foreign Minister Daw Aung San Suu Kyi," press release, May 22, 2016.

[27] White House, "Remarks by President Obama and State Counselor Aung San Suu Kyi of Burma," press release, September 14, 2016.

restrictions on relations enhance or harm developments in Burma that are consistent with U.S. policy objectives in order to determine which restrictions to maintain, impose, or remove.

## Goals of U.S. Policy

For many years, Congress and the executive branch have, in general, shared a common view on the broader goals of U.S. policy in Burma—the establishment of a democratically elected civilian government that respects the human rights of its people and promotes the peace and prosperity of the nation. The current U.S. ambassador to Burma, Scot Marciel, reiterated this policy in a press interview on May 10, 2016, stating, "But our goal, the United States' goal, remains the same: We want to see a peaceful, prosperous, democratic Myanmar. One whose people live in harmony and enjoy full rights."[28]

What Congress chooses to do with respect to U.S. restrictions on relations with Burma will depend on what it determines the objectives of U.S. policy toward Burma should be, and in what order of priority. Among the specific objectives for U.S. policy in Burma that have been proposed by various human rights organizations and that Congress may choose to consider are:

- supporting the peace process and national reconciliation to end the nation's civil war;[29]
- addressing the plight of the Rohingya in Rakhine State, including investigating alleged genocide, crimes against humanity, and/or war crimes perpetrated by the Tatmadaw and other security forces, providing adequate and reliable humanitarian assistance to the internally displaced persons (IDPs) in Rakhine State, and addressing the citizenship status of the currently stateless Rohingya;
- responding to the allegations that Burmese security forces committed crimes against humanity and/or war crimes in Kachin and Shan States;
- promoting amendments to the 2008 constitution to establish a more democratic, civilian government;
- amending or repealing Burmese laws that are inconsistent with internationally recognized human rights, and promoting the protection of human rights in Burma;
- supporting the development of governmental institutions that are resilient enough to function during times of political change and natural disasters; and
- promoting economic growth and development to provide greater prosperity to the people of Burma.

Moving beyond these general goals, however, may reveal underlying contradictions between the different goals. Efforts to promote economic prosperity in Burma, for example, may run counter to establishing a democratically elected civilian government. The Burmese military, via such entities as the Myanmar Economic Corporation (MEC) and the Union of Myanmar Economic Holdings Limited (UMEHL), controls many sectors of the Burmese economy, including most of the nation's natural resources. Efforts to promote economic prosperity by permitting U.S. trade and investment in portions of the economy controlled by the Burmese military may bolster their economic and political power, and as such, lead Burma's military leaders to resist further political and economic reforms. Further political and economic reform could depend on the Burmese

[28] Andrew D. Kaspar, "New US Ambassador Flags Many Old Problems for Burma," *Irrawaddy*, May 10, 2016.

[29] For more about the peace process, see CRS In Focus IF10417, *Burma's Peace Process: Challenges Ahead in 2017*, by Michael F. Martin.

military's willingness to relinquish some or all of its seats in the Union Parliament, as well as its control over the appointment of the Ministers of Border Affairs, Defence, and Home Affairs. At the same time, however, it is also possible that permitting U.S. economic relations with MEC, UMEHL, and other companies owned by the Burmese military, its leaders, and/or relatives and close friends of the military leaders, could prompt Burma's military leaders to be more willing to relinquish some of their political power. Congress may explore these questions further.

## Burma's Current Political Situation

Aung San Suu Kyi has emerged as the dominant political figure in the NLD-led government, and is using her authority as State Counselor and Foreign Minister to set priorities and oversee implementation of government policy. Depending on how the dynamics between Aung San Suu Kyi and other influential figures and forces (such as Commander in Chief Min Aung Hlaing and the ethnic armed organizations) proceed, Congress may choose to assess if her views on specific issues are consistent with U.S. policy, and how best to work with her to advance those efforts.

Understanding the views of Burma's military leaders has always been crucial in forming a framework to understand Burmese political conditions. It was Burma's military leaders that effectively wrote the 2008 constitution, held the parliamentary elections in 2010, and formed the core of the Thein Sein government that ran the country from 2011 to 2015. The political and economic reforms that have occurred in Burma since 2008 are either the direct results of the actions of Burma's military leaders or were undertaken with the support of the military leaders. Those reforms have been generally consistent with the "seven step roadmap to a disciplined democracy" announced by General Khin Nyunt, the military junta's Prime Minister, on August 30, 2003. In the various meetings and conferences held to discuss a path to ending Burma's civil war, Commander-in-Chief Min Aung Hlaing and other Tatmadaw representatives have demonstrated little willingness to negotiate. As a result, it appears unlikely that Burma's military leaders will be supportive of or willing to allow the political and economic reforms proposed by the NLD-led government, and they will resist efforts to fundamentally alter the current governance system.

Similarly, the opinions of the various EAOs may play a vital role in achieving U.S. goals in Burma. Ending the civil war will require the EAOs to either agree to a cease-fire and the terms for a new governance system, and/or be defeated militarily. Achieving the former may require major changes in the 2008 constitution (including its possible replacement with a new constitution) and Burma's economy, particularly control over the nation's natural resources. Such changes may be unacceptable to Burma's military or the NLD-led government. Defeating the EAOs in the battlefield, however, may be beyond the capabilities of the Burmese military without substantial international assistance, as well as the support of the NLD-led government. At this time, neither Aung San Suu Kyi nor the NLD-led government appear to support a military solution to Burma's civil war, but prospects for Aung San Suu Kyi's proposed peace process also are unclear.[30]

Another potentially important force in Burma's current political dynamic is the community of emerging civil society organizations (CSOs). During the decades of military rule, Burma's military leaders actively suppressed the establishment of CSOs in order to maintain control over the Burmese people. The Thein Sein government allowed the emergence of issue-driven CSOs in Burma, and some of them have undertaken causes generally consistent with U.S. policy.

[30] For more about Burma's peace process, see CRS In Focus IF10808, *Burma's Peace Process: Narrowing Opportunities in 2018*, by Michael F. Martin.

Relations between some CSOs and the NLD-led government, however, are reportedly strained; 40 CSOs wrote an open letter to Aung San Suu Kyi in July 2016 asking that they be allowed to play a more active role in the peace process.[31]

Besides their potential support for U.S. goals in Burma, CSOs may play a vital role in the discussion of political reform and the peace process, according to some observers. One such observer expressed concern that national reconciliation, if left to the NLD-led government, the Burmese military, and the EAOs, could result in the establishment of a federation of "crony states," in which the current military leaders and their supporters in each region of Burma control both the political and economic systems, and prevent the establishment of a democratic civilian government based on the rule of law and the will of the Burmese people.[32]

## Escalation of the Civil War

The NLD-led government has been in office for more than two years, and questions are being raised in Burma about its commitment and ability to secure an end to the nation's civil war, promote political reform, and protect the human rights of the Burmese people. Aung San Suu Kyi has identified the end the civil war as a top priority for the new government, but the three "21st Century Panglong Conferences" have demonstrated that the various groups in attendance have different visions for a democratic federated state of Burma and the path to achieving that goal. Fighting between the Tatmadaw and at least four of the EAOs (the Kachin Independence Army, the Myanmar National Democratic Alliance Army, the Ta'ang National Liberation Army, and Arakan Army) has escalated, raising doubts about the prospects for peace and the Tatmadaw's support for a nationwide cease-fire agreement.

## Crises in Rakhine State

More than a year has passed since the Tatmadaw launched their "clearance operations" in northern Rakhine State, and virtually all of the more than 700,000 Rohingya who fled to Bangladesh remain in refugee camps, with a trickle of new arrivals every week. The estimated 600,000 Rohingya who remain in Burma face harsh conditions, including a 10:00 p.m. to 5:00 a.m. curfew, restrictions on movement, lack of employment, limited access to their farms, and harassment from local police and others. Provision of humanitarian assistance in Bangladesh appears adequate, but funding is a growing concern. Access to northern Rakhine State remains strictly controlled by the Tatmadaw, despite an agreement with the United Nations, resulting in a shortage of food, water, and medical care for the Rohingya community.

Prospects for the dignified, safe, voluntary, and sustainable return of Rohingya displaced into Bangladesh are presently poor. While the governments in Dhaka and Naypyitaw have signed a memorandum of understanding (MOU) regarding the return of the Rohingya, none have returned in accordance with the procedures prescribed by the MOU. The United Nations has stated conditions in northern Rakhine State are neither sufficiently safe nor sustainable for the return of the Rohingya.[33]

Two other issues pose major barriers to the voluntary return of the Rohingya. Many of the Rohingya insist that their Burmese citizenship must be reinstated before they will return to Rakhine State. In 1982, Burma's military junta promulgated a new citizenship law, the

[31] Burma Border-based CSOs, "Burma Border-based Civil Society Organizations Send an Open Letter to State Counselor, Daw Aung San Suu Kyi," press release, July 26, 2016.

[32] CRS communication with former State Department official.

[33] "Too soon to send Rohingya back to Myanmar - U.N. rights envoy," *Reuters*, November 6, 2018.

implementation of which effectively stripped most of the Rohingya of their citizenship. Aung San Suu Kyi and the NLD have chosen to leave that law in place despite a supermajority in Burma's Union Parliament, but have offered to consider applications for citizenship from the Rohingya according to the provisions of the 1982 law. This appears to be unacceptable to many of the Rohingya.

The other issue that could preclude the return of the Rohingya is their desire for some form of accountability for the crimes committed against them during the "clearance operations."[34] A United Nations fact-finding mission has recommended that the U.N. Security Council refer the case to the International Criminal Court (ICC) or an "ad hoc international criminal tribunal."[35] The ICC determined in September 2018 that it has jurisdiction over the displacement of Rohingya into Bangladesh.[36] Various organizations have called for the passage of U.N. sanctions against Burma and the Tatmadaw, as well as the imposition of bilateral restrictions on relations with Burma. To date, the international response to calls for accountability in Burma have been limited, and unlikely to be considered sufficient by the displaced Rohingya.

### Human Rights

Progress on other human rights issues has also been relatively slow, according to some observers. In her first official act as State Counsellor, Aung San Suu Kyi ordered the release of 113 political detainees on April 7, 2016, and indicated that freeing all political prisoners would be a priority for the new government.[37] President Htin Kyaw granted amnesty to 70 political prisoners on April 17, 2016. By mid-August, the NLD-led government reportedly had released 457 people facing trial for political activities.[38] According to the Assistance Association for Political Prisoners (Burma), a nonprofit human rights organization formed in 2000 by former political prisoners, there were 276 political prisoners as of the end of September 2018, including 26 serving sentences, 51 detained while awaiting trial, and 199 released while awaiting trial.[39]

Burma's ongoing problem with political prisoners is in part facilitated by the existence of a number of laws, some dating back to British colonial rule, that restrict freedom of speech, freedom of association, and other internationally recognized human rights. In June 2016, Human Rights Watch released a report, *They Can Arrest You at Any Time*, detailing how various repressive laws criminalize peaceful expression in Burma.[40]

## Addressing U.S. Restrictions

Depending on what goals it sets for U.S. policy in Burma and its perspective on the current political situation in the country, Congress may decide to address the existing restrictions on U.S. relations. In the past, this has been done by passing specific legislation to impose or recommend restrictions on bilateral or multilateral relations, or by including provisions in appropriations

[34] For more about the accountability issue, see CRS Report R45388, *Burmese Security Forces and Personnel Implicated in Serious Human Rights Abuses and Accountability Options*, by Michael F. Martin.

[35] CRS In Focus IF10970, *U.N. Report Recommends Burmese Military Leaders Be Investigated and Prosecuted for Possible Genocide*.

[36] International Criminal Court, "ICC Pre-Trial Chamber I rules that the Court may exercise jurisdiction over the alleged deportation of the Rohingya people from Myanmar to Bangladesh," press release, September 6, 2018.

[37] Sai Wansai, "Burma's Political Tug of War," *Shan Herald Agency for News*, April 18, 2016.

[38] "NLD Govt Has Released 457 Political Prisoners," *Democratic Voice of Burma*, August 18, 2016.

[39] AAPP(B), *Monthly Chronology of September 2018 and Current Political Prisoners list*, October 15, 2018.

[40] Human Rights Watch, *They Can Arrest You at Any Time, The Criminalization of Peaceful Expression in Burma*, June 2016.

legislation setting limits on bilateral or multilateral assistance to Burma. Congress has also passed legislation that places conditions on certain forms of bilateral relations contingent on acceptable behavior with regard to specific issues, such as the recruitment and induction of children into the military. In addition, Congress may actively or passively permit the President and the executive branch to determine what restrictions, if any, should be placed on relations with Burma, and provide the necessary authority and appropriations to implement U.S. policy toward Burma.

Congress may have the opportunity to take action with respect to U.S. policy in Burma on certain dates or at particular junctures. For example, congressional consideration of appropriations legislation—or continuing resolutions—provides a legislative juncture when restrictions on relations with Burma may be considered and altered, if Congress so chooses.

In addition, Congress may consider revisiting the body of legislation imposing restrictions on relations with Burma to determine if the time has come to repeal or amend those laws in light of the changes that have occurred in the country, and the extent to which the restrictions imposed in those laws are no longer in effect due to presidential waivers. To lift the economic restrictions on Burma, President Obama had to terminate and revoke five separate Executive Orders, and invoke authority in the JADE Act. Some observers suggest Congress should pass new legislation stating the goals of U.S. policy, accounting for the current situation in Burma, indicating the restrictions in relations with Burma that are to remain in place, and providing clear and concise conditions or guidelines for the removal of those restrictions. During the 115th Congress, two bills of this type—the Burma Unified through Rigorous Military Accountability Act of 2018 (H.R. 5819) and the Burma Human Rights and Freedom Act of 2018 (S. 2060)—were introduced.

# Appendix. Chronology of Burmese Sanction Legislation and Related Executive Orders

Starting in 1989 and continuing through 2008, Congress and the executive branch imposed a series of political and economic sanctions on Burma's ruling military junta. Since 2008, most of the congressional or executive actions have been to waive or eliminate some of those sanctions. The following table provides a list of such congressional or presidential actions in chronological order.

**Chronology**

| Date | Document | Description |
|---|---|---|
| April 13, 1989 | Presidential Proclamation 5955 | • Suspended Burma as a beneficiary of the U.S. Generalized System of Preferences (GSP) |
| August 20, 1990 | Section 138 of the Customs and Trade Act of 1990 (P.L. 101-382) | • Required President to "impose such economic sanctions upon Burma as the President determines to be appropriate …" |
| June 9, 1993 | Public Notice 1820 | • Suspended the issuance of export licenses and other approvals "to export or otherwise transfer defense articles or defense services to Burma" |
| April 30, 1994 | Section 431 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236) | • Amended Section 307 of the Foreign Assistance Act of 1961 to withhold the "United States proportionate share for certain programs of international organizations" in Burma (exception provided for International Atomic Energy Agency and the United Nations Children's Fund) |
| September 30, 1996 | Section 570(a) of the Omnibus Consolidated Appropriations Act, 1997 (P.L. 104-208) | • Prohibited new investment in Burma; limited bilateral assistance to Burma to humanitarian assistance, counternarcotics assistance, and "assistance promoting human rights and democratic values"<br>• Required the Secretary of the Treasury to "instruct the United States executive director of each international financial institution to vote against any loan or other utilization of funds of the respective bank to or for Burma"<br>• Stipulated that "the United States should not grant entry visas to any Burmese government official" except as required by "treaty obligations or to staff the Burmese mission in the United States" |
| October 3, 1996 | Presidential Proclamation 6925 | • Suspended "the entry into the United States as immigrants and nonimmigrants of persons who formulate, implement, or benefit from policies that impede Burma's transition to democracy, and the immediate family members of such persons" [Section 1] |

| Date | Document | Description |
|---|---|---|
| May 20, 1997 | Executive Order 13047 | • Prohibited new investment in Burma by United States persons as of 12:01 a.m. (EDT) on May 21, 1997 [Section 1]<br>• Prohibited any financial transaction by a United States person or within the United States that "would constitute new investment in Burma prohibited by this order" [Section 2] |
| July 28, 2003 | Burmese Freedom and Democracy Act (BFDA; P.L. 108-61) | • Banned the import of "any article that is a product of Burma" [Section 3(a)(1)]<br>• Banned the import of goods from certain Burmese companies [Section 3(a)(2)]<br>• Authorized the President to "Freeze" the assets held by any U.S. financial institution belonging to "those individuals who hold senior positions" in the State Peace and Development Council (SPDC) or the Union Solidarity Development Association (USDA) [Section 4]<br>• Required the Secretary of the Treasury to instruct the U.S. executive director "to each appropriate international financial institution in which the United States participates to oppose, and vote against the extension by such institution of any loan or financial or technical assistance to Burma" [Section 5]<br>• Authorized the President to deny visas to "former and present leadership" of the SPDC and USDA [Section 6] |
| July 28, 2003 | Executive Order 13310 | • Blocked the transfer, payment, export, or withdrawal of all property or interest in property of any person determined by the Secretary of the Treasury to be: a senior official of the Government of Burma (GOB), the SPDC, the USDA, or any successor entity to the forgoing; or "to be owned, or controlled by, or acting or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order" [Section 1]<br>• Prohibited "the exportation or reexportation, directly or indirectly, to Burma of financial services either (i) from the United States or (ii) by a United States person, wherever located"; and "any approval, financing, facilitating or guarantee by a United States person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited by this order if performed by a United States person or within the United States" [Section 2]<br>• Prohibited "the importation into the United States of any article that is a product of Burma" [Section 3]<br>• Revoked Sections 1-7 of Executive Order 13047 "to the extent they are inconsistent with this order" [Section 12] |

| Date | Document | Description |
|---|---|---|
| October 23, 2007 | Executive Order 13448 | • Blocked the transfer, payment, export, or withdrawal of all property or interest in property of any person determined by the Secretary of the Treasury to be a senior official of the GOB, the SPDC, the USDA, or any successor entity to the forgoing; be "responsible for, or to have participated in," human rights abuses related to political repression in Burma; "engaged, or to have engaged, in activities facilitating corruption" by senior officials of the GOB; "have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods and services in support of" the GOB, SPDC, USDA, any successor entity to any of the forgoing, any senior official of the forgoing, or any person whose property and interests in property is blocked pursuant to Executive Order 13310; or to be a spouse or dependent child of any person whose property and interests in property are blocked pursuant to this order or Executive Order 13310 [Section 1] |
| April 30, 2008 | Executive Order 13464 | • Blocked the transfer, payment, export, or withdrawal of all property or interest in property of any person determined by the Secretary of the Treasury to be owned or controlled by, directly or indirectly, the GOB or an official or officials of the GOB; "have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods and services in support of" the GOB, SPDC, USDA, any successor entity to any of the forgoing, any senior official of the forgoing, or any person whose property and interests in property is blocked pursuant to Executive Order 13310, Executive Order 13448, or this order; or be "owned or controlled by, or to have acted or purported to act for or on the behalf of, directly or indirectly, any person whose property and interests in property is blocked pursuant to Executive Order 13310, Executive Order 13448, or this order" [Section 1] |

| Date | Document | Description |
|---|---|---|
| July 29, 2008 | The Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (JADE Act; P.L. 110-286) | • Rendered ineligible for a visa to travel to the United States former and present leaders of the SPDC, the Burmese military, or the USDA; officials of the SPDC, Burmese military, or the USDA "involved in the repression of peaceful political activity in in other gross violations of human rights in Burma or in the commission of other human rights abuses"; any other Burmese persons "who provide substantial economic or political support" for the SPDC, Burmese military, or the USDA; or the immediate family members of any person described by the preceding text [Section 5(a)(1)]<br>• Blocked the transfer, payment, export, or withdrawal of property or interest in property belonging to a person subject to the visa restriction above if the property is in the United States or "within the possession or control of a United States person"[41] [Section 5(b)(1)]<br>• Except with respect to financial transactions authorized under EO 13047 and 13310, prohibited a United States person from engaging in a financial transaction with the SPDC or any person subject to the visa restriction above [Section 5(b)(2)]<br>• Authorized the Secretary of the Treasury to prohibit or impose conditions on the opening or maintaining of correspondent accounts or payable-through accounts if the Secretary determines the account may be used by a foreign banking institution that holds property or interest in property belonging to the SPDC or any person subject to the visa restriction [Section 5(c)]<br>• Amended the BFDA (by the addition of Section 3A) to prohibit the import of jadeite and rubies from Burma or articles of jewelry containing jadeite or rubies from Burma [Section 6] |
| September 26, 2008 | Presidential Proclamation 8294 | • Determined procedures to implement Sections 3 and 3A of the BFDA, as amended by the JADE Act<br>• Modified Chapter 71 of the Harmonized Tariff Schedule of the United States to reflect the prohibition of goods from Burma in headings 7103, 7113, and 7116 |
| January 15, 2009 | Presidential Determination 2009-11 | • Waived the provisions of Section 5(b) of the JADE Act with respect to those persons described in Section 5(a)(1) of the JADE Act who are not included on the Department of Treasury's List of Specially Designated Nationals and Blocked Persons (SDN List) |

[41] "A United States person" is defined as "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."

| Date | Document | Description |
|---|---|---|
| July 11, 2012 | Executive Order 13619 | • Blocked the transfer, payment, export, or withdrawal of all property or interests in property of any person determined by the Secretary of the Treasury to have engaged in acts that directly or indirectly threaten the peace, security, or stability of Burma; be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have participated in, the commission of human rights abuses in Burma; have, directly or indirectly, imported, exported, reexported, sold, or supplied arms or related materiel from North Korea or the Government of North Korea to Burma or the GOB; be a senior official of an entity that has engaged in the acts described in the forgoing; have materially assisted, sponsored, or provided financial, material, or technological support for, or goods and services to or in support of, the acts described in the forgoing or any person whose property or interests in property are blocked pursuant to this order; or be owned or controlled by, or to have acted or purported to act for on behalf of, directly or indirectly, any person whose property or interests in property are blocked pursuant to this order [Section 1]<br>• Suspended the entry into the United States of aliens determined to meet one or more of the forgoing criteria [Section 5] |
| September 20, 2012 | P.L. 112-192 | • Provided the President the authority to determine that "it is in the national interest of the United States to support assistance to Burma," and allow the Secretary of the Treasury to instruct the United States executive director of any international financial institution to vote in favor of the provision of assistance to Burma |
| August 6, 2013 | Executive Order 13651 | • Prohibited the import into the United States of "any jadeite or rubies mined or extracted from Burma or any articles of jewelry containing jadeite or rubies mined or extracted from Burma" [Section 1]<br>• Revoked Sections 3 and 8 of Executive Order 13310 [Section 2]<br>• Waived Section 5(b) of the JADE Act [Section 8] |
| September 14, 2016 | Presidential Proclamation 9492 | • Restored Burma's trade benefits under the Generalized System of Preferences (GSP) |
| September 28, 2016 | Presidential Memorandum | • Waived the application of prohibitions in Section 404(a) of the Child Soldiers Prevention Act of 2008 with respect to Burma |
| October 7, 2016 | Executive Order 13742 | • Terminated national emergency with respect to Burma<br>• Revoked Executive Orders 13047, 13310, 13448, 13619, and 13651<br>• Waived Section 5(b) of the JADE Act [Section 2] |

| Date | Document | Description |
|---|---|---|
| December 2, 2016 | Presidential Determination 2017-04 | • Determined and certified to Congress that "Burma has made measureable and substantial progress in improving human rights practices and implementing democratic government"<br>• Terminated the restrictions on bilateral assistance in Section 570(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (P.L. 104-208) |
| May 8, 2017 | Consolidated Appropriations Act, 2017 (P.L. 115-31) | • Section 7015(f)—requires "the regular notification procedures of the Committees of Appropriations" be followed when obligating or expending assistance to Burma under Titles III through VI.<br>• Section 7043(b)—sets requirements and places limits on the types of bilateral economic assistance (Title III), international security assistance (Title IV), and multilateral assistance (Title V) that can be provided to Burma. |
| March 23, 2018 | Consolidated Appropriations Act, 2018 (P.L. 115-141) | • Section 7015(f)—requires "the regular notification procedures of the Committees of Appropriations" be followed when obligating or expending assistance to Burma under Titles III through VI.<br>• Section 7043(a)—sets requirements and places limits on the types of bilateral economic assistance (Title III), international security assistance (Title IV), and multilateral assistance (Title V) that can be provided to Burma. |

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