

BURMESE FREEDOM AND DEMOCRACY ACT OF 2003

JUNE 17, 2003.—Ordered to be printed

Mr. HYDE, from the Committee on International Relations,  
submitted the following

R E P O R T

[To accompany H.R. 2330]

The Committee on International Relations, to whom was referred the bill (H.R. 2330) to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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## THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

## SECTION 1. SHORT TITLE.

This Act may be cited as the “Burmese Freedom and Democracy Act of 2003”.

## SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The State Peace and Development Council (SPDC) has failed to transfer power to the National League for Democracy (NLD) whose parliamentarians won an overwhelming victory in the 1990 elections in Burma.

(2) The SPDC has failed to enter into meaningful, political dialogue with the NLD and ethnic minorities and has dismissed the efforts of United Nations Special Envoy Razali bin Ismail to further such dialogue.

(3) According to the State Department’s “Report to the Congress Regarding Conditions in Burma and U.S. Policy Toward Burma” dated March 28, 2003, the SPDC has become “more confrontational” in its exchanges with the NLD.

(4) On May 30, 2003, the SPDC, threatened by continued support for the NLD throughout Burma, brutally attacked NLD supporters, killed and injured scores of civilians, and arrested democracy advocate Aung San Suu Kyi and other activists.

(5) The SPDC continues egregious human rights violations against Burmese citizens, uses rape as a weapon of intimidation and torture against women, and forcibly conscripts child-soldiers for the use in fighting indigenous ethnic groups.

(6) The SPDC is engaged in ethnic cleansing against minorities within Burma, including the Karen, Karenni, and Shan people, which constitutes a crime against humanity and has directly led to more than 600,000 internally displaced people living within Burma and more than 130,000 people from Burma living in refugee camps along the Thai-Burma border.

(7) The ethnic cleansing campaign of the SPDC is in sharp contrast to the traditional peaceful coexistence in Burma of Buddhists, Muslims, Christians, and people of traditional beliefs.

(8) The SPDC has demonstrably failed to cooperate with the United States in stopping the flood of heroin and methamphetamines being grown, refined, manufactured, and transported in areas under the control of the SPDC serving to flood the region and much of the world with these illicit drugs.

(9) The SPDC provides safety, security, and engages in business dealings with narcotics traffickers under indictment by United States authorities, and other producers and traffickers of narcotics.

(10) The International Labor Organization (ILO), for the first time in its 82-year history, adopted in 2000, a resolution recommending that governments, employers, and workers organizations take appropriate measures to ensure that their relations with the SPDC do not abet the government-sponsored system of forced, compulsory, or slave labor in Burma, and that other international bodies reconsider any cooperation they may be engaged in with Burma and, if appropriate, cease as soon as possible any activity that could abet the practice of forced, compulsory, or slave labor.

(11) The SPDC has integrated the Burmese military and its surrogates into all facets of the economy effectively destroying any free enterprise system.

(12) Investment in Burmese companies and purchases from them serve to provide the SPDC with currency that is used to finance its instruments of terror and repression against the Burmese people.

(13) On April 15, 2003, the American Apparel and Footwear Association expressed its “strong support for a full and immediate ban on U.S. textiles, apparel and footwear imports from Burma” and called upon the United States Government to “impose an outright ban on U.S. imports” of these items until Burma demonstrates respect for basic human and labor rights of its citizens.

(14) The policy of the United States, as articulated by the President on April 24, 2003, is to officially recognize the NLD as the legitimate representative of the Burmese people as determined by the 1990 election.

(15) The United States must work closely with other nations, including Thailand, a close ally of the United States, to highlight attention to the SPDC’s systematic abuses of human rights in Burma, to ensure that nongovernmental organizations promoting human rights and political freedom in Burma are allowed to operate freely and without harassment, and to craft a multilateral

sanctions regime against Burma in order to pressure the SPDC to meet the conditions identified in section 3(a)(3) of this Act.

**SEC. 3. BAN AGAINST TRADE THAT SUPPORTS THE MILITARY REGIME OF BURMA.**

(a) **GENERAL BAN.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, until such time as the President determines and certifies to Congress that Burma has met the conditions described in paragraph (3), no article may be imported into the United States that is produced, mined, manufactured, grown, or assembled in Burma.

(2) **BAN ON IMPORTS FROM CERTAIN COMPANIES.**—The import restrictions contained in paragraph (1) shall apply to, among other entities—

(A) the SPDC, any ministry of the SPDC, a member of the SPDC or an immediate family member of such member;

(B) known narcotics traffickers from Burma or an immediate family member of such narcotics trafficker;

(C) the Union of Myanmar Economics Holdings Incorporated (UMEHI) or any company in which the UMEHI has a fiduciary interest;

(D) the Myanmar Economic Corporation (MEC) or any company in which the MEC has a fiduciary interest;

(E) the Union Solidarity and Development Association (USDA); and

(F) any successor entity for the SPDC, UMEHI, MEC, or USDA.

(3) **CONDITIONS DESCRIBED.**—The conditions described in this paragraph are the following:

(A) The SPDC has made substantial and measurable progress to end violations of internationally recognized human rights including rape, and the Secretary of State, after consultation with the ILO Secretary General and relevant nongovernmental organizations, reports to the appropriate congressional committees that the SPDC no longer systematically violates workers rights, including the use of forced and child labor, and conscription of child-soldiers.

(B) The SPDC has made measurable and substantial progress toward implementing a democratic government including—

(i) releasing all political prisoners;

(ii) allowing freedom of speech and the press;

(iii) allowing freedom of association;

(iv) permitting the peaceful exercise of religion; and

(v) bringing to a conclusion an agreement between the SPDC and the democratic forces led by the NLD and Burma's ethnic nationalities on the transfer of power to a civilian government accountable to the Burmese people through democratic elections under the rule of law.

(C) Pursuant to section 706(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228), Burma has not been designated as a country that has failed demonstrably to make substantial efforts to adhere to its obligations under international counternarcotics agreements and to take other effective counternarcotics measures, including, but not limited to (i) the arrest and extradition of all individuals under indictment in the United States for narcotics trafficking, (ii) concrete and measurable actions to stem the flow of illicit drug money into Burma's banking system and economic enterprises, and (iii) actions to stop the manufacture and export of methamphetamines.

(4) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—In this subsection, the term “appropriate congressional committees” means the Committees on Foreign Relations and Appropriations of the Senate and the Committees on International Relations and Appropriations of the House of Representatives.

(b) **WAIVER AUTHORITIES.**—The President may waive the prohibitions described in this section for any or all products imported from Burma to the United States if the President determines and notifies the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations, International Relations, and Ways and Means of the House of Representatives that to do so is in the national interest of the United States.

(c) **DURATION OF TRADE BAN.**—The President may terminate the restrictions contained in this Act upon the request of a democratically elected government in Burma, provided that all the conditions in subsection (a)(3) have been met.

**SEC. 4. FREEZING ASSETS OF THE BURMESE REGIME IN THE UNITED STATES.**

Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall direct, and promulgate regulations to the same, that any United States financial institution holding funds belonging to the SPDC or the assets of those individuals who hold senior positions in the SPDC or its political arm,

the Union Solidarity Development Association, shall promptly report those assets to the Office of Foreign Assets Control. The Secretary of the Treasury may take such action as may be necessary to secure such assets or funds.

**SEC. 5. LOANS AT INTERNATIONAL FINANCIAL INSTITUTIONS.**

The Secretary of the Treasury shall instruct the United States 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 until such time as the conditions described in section 3(a)(3) are met.

**SEC. 6. EXPANSION OF VISA BAN.**

(a) **IN GENERAL.**—

(1) **VISA BAN.**—The President is authorized to deny visas and entry to the former and present leadership of the SPDC or the Union Solidarity Development Association.

(2) **UPDATES.**—The Secretary of State shall coordinate on a biannual basis with representatives of the European Union to allow officials of the United States and the European Union to ensure a high degree of coordination of lists of individuals banned from obtaining a visa by the European Union for the reason described in paragraph (1) and those banned from receiving a visa from the United States.

(b) **PUBLICATION.**—The Secretary of State shall post on the Department of State's website the names of individuals whose entry into the United States is banned under subsection (a).

**SEC. 7. CONDEMNATION OF THE REGIME AND DISSEMINATION OF INFORMATION.**

Congress encourages the Secretary of State to highlight the abysmal record of the SPDC to the international community and use all appropriate fora, including the Association of Southeast Asian Nations Regional Forum and Asian Nations Regional Forum, to encourage other states to restrict financial resources to the SPDC and Burmese companies while offering political recognition and support to Burma's democratic movement including the National League for Democracy and Burma's ethnic groups.

**SEC. 8. SUPPORT DEMOCRACY ACTIVISTS IN BURMA.**

(a) **IN GENERAL.**—The President is authorized to use all available resources to assist Burmese democracy activists dedicated to nonviolent opposition to the regime in their efforts to promote freedom, democracy, and human rights in Burma, including a listing of constraints on such programming.

(b) **REPORTS.**—

(1) **FIRST REPORT.**—Not later than 3 months after the date of enactment of this Act, the Secretary of State shall provide the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives a comprehensive report on its short- and long-term programs and activities to support democracy activists in Burma, including a list of constraints on such programming.

(2) **REPORT ON RESOURCES.**—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall provide the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives a report identifying resources that will be necessary for the reconstruction of Burma, after the SPDC is removed from power, including—

- (A) the formation of democratic institutions;
- (B) establishing the rule of law;
- (C) establishing freedom of the press;
- (D) providing for the successful reintegration of military officers and personnel into Burmese society; and
- (E) providing health, educational, and economic development.

**PURPOSE AND SUMMARY**

H.R. 2330 is intended to strengthen democratic forces in Burma and to sanction the ruling Burmese military junta. The bill includes: (Sec. 2) a series of findings detailing the Burmese regime's repression and misdeeds; (Sec. 3) a trade ban on the import of Burmese goods into the U.S. (which the President may waive for purposes of the national interest); (Sec. 4) a freeze on Burmese regime assets in U.S. financial institutions; (Sec. 5) a codification of the

current policy directing the Treasury Department to oppose any new loans or technical assistance to Burma; (Sec. 6) an expansion of the current ban prohibiting Burmese leaders from receiving U.S. visas; (Sec. 7) a section encouraging the Secretary of State to use all appropriate fora to encourage other states to restrict support for the Burmese regime and to support the Burmese democracy movement; and (Sec. 8) a section authorizing the President to use resources to assist Burmese democracy activists, and requiring reports on U.S. democracy programs in Burma and on resources that will be necessary for the reconstruction of Burma after the regime is removed from power.

#### BACKGROUND AND NEED FOR THE LEGISLATION

On May 30, 2003, a group of government-affiliated thugs carried out a premeditated ambush of the motorcade of Burma democracy leader and Nobel laureate Aung San Suu Kyi, who has been detained since then. An undetermined number of her supporters were murdered in that attack.

Burma is ruled by a military junta that seized power by force in 1988 and currently calls itself the State Peace and Development Council (SPDC). Although Aung San Suu Kyi's National League for Democracy (NLD) won the majority of National Assembly seats in a free and fair election in 1990, the junta nullified the results and imprisoned NLD leaders. The military regime has committed numerous other human rights abuses, such as large-scale forced labor and the reported use of rape as a weapon against insurgencies by ethnic minorities.

The findings and sanctions in H.R. 2330 are justified and necessary to promote freedom in Burma, both because of the Burmese regime's egregious behavior, and because export trade is a key source of foreign exchange for the junta and its apparatus of repression. Rarely does Congress have the opportunity to respond immediately to fast-breaking international developments to effect a decisive and dramatic change in U.S. foreign policy. Congress has just such an opportunity now regarding Burma.

The history of this bill is instructive. Legislation imposing an import sanctions ban was first proposed last Congress, but Congress did not act in large part because the Burmese regime released Aung Sang Suu Kyi from her longstanding house arrest. It appeared that dialogue and national reconciliation in Burma was possible.

But with the brutal attack last week, the Rangoon regime unambiguously recommitted itself to quashing all democratic opposition in Burma and extending its reign of terror over a captive nation. It is clear that dialogue and national reconciliation in Burma are dead. The United States must adopt a new approach toward Burma that includes a strong sanctions regime.

H.R. 2330 also presents the United States with an opportunity to exercise global leadership and to provide an example for the international action that must follow in order to have a far-reaching impact on Burma's military junta. Europe—which already has strong Burma policies in place—also should adopt import sanctions. Thailand and China must recognize that national reconciliation will not happen under the current regime, and stop their economic and political patronage of the Burmese dictatorship.

## HEARINGS

The Committee's Subcommittee on Asia and the Pacific held 1 day of hearings that addressed recent developments in Burma and H.R. 2330 on June 10, 2003. Testimony was received from four witnesses, representing four organizations.

## COMMITTEE CONSIDERATION

On June 10, 2003, the Subcommittee on Asia and the Pacific met in open session and ordered favorably reported the bill H.R. 2330, by a voice vote, a quorum being present. On June 12, 2003, the Committee met in open session and ordered favorably reported the bill H.R. 2330 with amendments by voice vote, a quorum being present.

## VOTES OF THE COMMITTEE

There were no recorded votes.

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

## COMMITTEE COST ESTIMATE

At the time of the filing of the report on H.R. 2330, the cost estimate of the Congressional Budget Office was not available. Based on the best information available at this time, the Committee estimates that, should H.R. 2330 be enacted, it would require no expenditures but would reduce Federal revenues by, at most, approximately \$26 million in FY 2004 and \$130 million over the next 5 fiscal years. This estimate assumes that the President does not exercise the waiver authority provided in Section 3(b) of the bill during that period, and that conditions do not improve so as to terminate the trade ban, as provided in Section 3(c).

## PERFORMANCE GOALS AND OBJECTIVES

H.R. 2330 will strengthen democratic forces in Burma and sanction the ruling Burmese military junta.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, of the Constitution.

## SECTION-BY-SECTION ANALYSIS AND DISCUSSION

*Section 1. Short Title*

This section contains the short title to the legislation, the Burmese Freedom and Democracy Act of 2003.”

*Section 2. Findings*

This section contains a series of findings regarding: (1) the victory of the opposition National League of Democracy (NLD) in the 1990 elections in Burma; (2) the efforts made by the United Nations to negotiate a solution between the ruling State Peace and Development Council (SPDC) and NLD leader Aung San Suu Kyi; (3) the increasingly confrontational policies of the SPDC; (4) the attack by the regime on the NLD and Aung San Suu Kyi on May 30; (5), the gross violations of human rights carried out by the Burmese regime; (6) the SPDC’s ethnic cleansing campaign against Burma’s ethnic minorities; (7) the traditional peaceful coexistence of Burma’s various religions; (8) the flow of illegal narcotics from Burma; (9) the regime’s business dealings with narcotics traffickers; (10) the regime’s use of forced labor; (11) the integration of the SPDC into the Burmese economy; (12) the role of foreign investment in supporting the Burmese regime; (13) the call of the American Apparel and Footwear Association for an import ban on Burmese products; (14) President Bush’s recent statements in support of the NLD in Burma; and, (15) the need for the U.S. to work closely with other nations on Burma policy.

*Section 3. Trade Ban*

This section prohibits the importation into the U.S. of any article which is produced, mined, manufactured, grown or assembled in Burma. The section also delineates several Burmese entities which will be included in the comprehensive import ban, including the SPDC, Burmese narcotics traffickers and their family members, the Union of Myanmar Economics Holdings Incorporated (UMEHI), the Myanmar Economic Corporation (MEC), the Union Solidarity Development Association (USDA), and any successor entities for the SPDC, UMEHI, MEC or USDA.

The sanctions in the bill may be lifted when the President certifies to Congress that a series of conditions inside Burma have been met. The conditions include substantial and measurable progress to end human rights violations, and the Secretary of State has reported to Congress that the SPDC no longer systematically violates workers rights, including the use of forced and child labor, and conscription of child-soldiers. The conditions also include measurable and substantial progress towards implementing a democratic government, including releasing all political prisoners, allowing freedom of speech and the press, freedom of association, and the peaceful exercise of religion. The President must also certify the conclusion of an agreement between the SPDC, the NLD and Burma’s ethnic nationalities on the transfer of power to a civilian government accountable to the Burmese people through democratic elections under the rule of law, and that Burma has not “demonstrably failed” to cooperate with the U.S. on counter-narcotics matters pursuant to Section 706(2) of the PL 107–228.

The sanctions may be waived if it is in the “national interest of the United States.” The Committee expects that the President will not exercise this waiver authority without prior consultations with the Members of the appropriate Congressional committees, including the House International Relations Committee.

The President also may terminate the restrictions contained in this act upon the request of a democratically elected government in Burma, provided that all of the conditions in subsection (a)(3) have been met.

*Section 4. Freezing of Burmese Assets*

This section directs the Secretary of the Treasury to freeze any assets in U.S. financial institutions belonging to the SPDC and its senior members, and its political arm, the Union Solidarity Development Association, and promptly report those assets to the Office of Foreign Assets Control.

*Section 5. Loans to Burma from the International Financial Institutions*

This section codifies existing policy directing the Secretary of the Treasury to instruct the United States executive director to each appropriate international financial institution in which the United States participates, to oppose and vote against any new loans or financial or technical assistance to Burma until such time as the conditions in section 3(a)(3) are met.

*Section 6. Visa Ban Expansion*

This section authorizes the President to deny visas and entry to the former and present leadership of the SPDC or the Union Solidarity Development Association. The State Department is directed to consult biannually with the European Union to ensure full coordination of the lists of individuals banned from obtaining a visa from the European Union and those banned from receiving a visa from the United States. This section also requires the Secretary of State to post on the State Department’s website the names of individuals whose entry into the U.S. is banned.

*Section 7. Condemnation of the Burmese Regime*

This section state that Congress encourages the Secretary of State to highlight the abysmal record of the SPDC to the international community and use all appropriate fora to encourage other states to restrict financial support to the SPDC and Burmese companies while offering political recognition and support to Burma’s democratic movement.

*Section 8. Support for Democracy Activists*

This section authorizes the President to use all available resources to assist Burmese democracy activists dedicated to non-violent opposition to the regime in their efforts to promote freedom, democracy, and human rights in Burma. The section also requires two reports from the Secretary of State to Congress, one report due 3 months after the date of enactment on all U.S. democracy programs in Burma, the second report due 6 months after the date of enactment identifying the resources that will be necessary for the reconstruction of Burma after the SPDC is removed from power.



## AGENCY VIEWS

UNITED STATES DEPARTMENT OF STATE  
 WASHINGTON, DC 20520  
*June 11, 2003*

Hon. HENRY J. HYDE, *Chairman,*  
*Committee on International Relations,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The deteriorating conditions in Burma are of grave concern to the Administration and we appreciate your leadership in advancing legislation to respond to these events.

The Department of State also appreciates the opportunity to review and comment on the "Burmese Freedom and Democracy Act of 2003 (H.R. 2330)," which Mr. Lantos introduced on June 4, 2003. We fully support the goal and intent of this legislation and agree on the need for many similar measures. For example, we are working on a unilateral expansion of the visa ban, extending it to all officials of the Union Solidarity Development Association (part of the SPDC) and their immediate families, rather than just to senior officials, as is current practice. We will also be adding managers of the state-run enterprises and their families to the list.

We agree on the need to prevent IFI funds going to the junta. We will continue to use our voice and vote in those institutions to oppose loans that benefit the military regime. We also agree on the need to express strong support for the NLD, and are doing so in every international forum in which the United States participates, including at the UN. Also significant are the findings of the annual Country Report on Human Rights Practices, Trafficking in Persons Report and Report on International Religious Freedom, which identify and strongly condemn known SPDC abuses. The President's Annual Report on Major Drug Transit or Major Illicit Drug Producing Countries has also identified Burma as a country that demonstrably has failed to meet its international obligations regarding narcotics.

In addition to the above efforts, which are already underway, we are determined to pursue additional measures against the regime, including an asset freeze, a possible ban on remittances and, with appropriate legislation, a ban on travel to Burma. We hope to move forward with these measures expeditiously and with the support of the Congress. We are also considering a further limitation on commerce with Burma, as proposed in your legislation. Any legislation would need to be crafted to take into account its impact on our broader policy objectives, including our WTO obligations, and the President's need for waiver authority.

Again, thank you for your leadership on this issue and your commitment to the cause of freedom. We look forward to working with you on the bill.

Sincerely,

PAUL V. KELLY, *Assistant Secretary*  
*Legislative Affairs*

## NEW ADVISORY COMMITTEES

H.R.2330 does not establish or authorize any new advisory committees.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 2330 does not apply to the legislative branch.

FEDERAL MANDATES

H.R. 2330 provides no Federal mandates.

