

110TH CONGRESS  
1ST SESSION

# H. R. 3890

To amend the Burmese Freedom and Democracy Act of 2003 to waive the requirement for annual renewal resolutions relating to import sanctions, impose import sanctions on Burmese gemstones, expand the number of individuals against whom the visa ban is applicable, expand the blocking of assets and other prohibited activities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2007

Mr. LANTOS (for himself, Ms. ROS-LEHTINEN, Mr. KING of New York, Mrs. MALONEY of New York, Mr. SMITH of New Jersey, and Mr. PITTS) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Ways and Means and Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Burmese Freedom and Democracy Act of 2003 to waive the requirement for annual renewal resolutions relating to import sanctions, impose import sanctions on Burmese gemstones, expand the number of individuals against whom the visa ban is applicable, expand the blocking of assets and other prohibited activities, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Block Burmese JADE  
3 (Junta’s Anti-Democratic Efforts) Act of 2007”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The Burmese regime has continued and  
7 worsened its obstruction of democratic processes and  
8 mass violation of human rights identified in the Bur-  
9 mese Freedom and Democracy Act of 2003 (Public  
10 Law 108–61; 50 U.S.C. 1701 note). In August and  
11 September 2007, Burmese people from all walks of  
12 life conducted their largest peaceful public protests  
13 since 1988. The peaceful public protests responded  
14 to a drastic increase in fuel prices, as well as the  
15 Burmese regime’s ongoing denial of the democratic  
16 and human rights of the Burmese people. On Sep-  
17 tember 24, 2007, Buddhist monks actively partici-  
18 pated and increasingly led these peaceful demonstra-  
19 tions, culminating in an estimated 100,000 people  
20 marching through Rangoon, Burma. The protesters  
21 peacefully demanded the release of 1991 Nobel  
22 Peace Prize Winner Daw Aung San Suu Kyi, the  
23 leader of the National League for Democracy  
24 (NLD), marching past security barricades to her  
25 house in a show of support for Burmese democracy.  
26 The Burmese regime continues to refuse to recog-

1 nize the results of the 1990 election, won by the  
2 NLD, which gave Aung San Suu Kyi the right to be  
3 named Prime Minister.

4 (2) The Burmese regime, which calls itself the  
5 State Peace and Development Council (SPDC), re-  
6 sponded to these peaceful protests with a violent  
7 crackdown leading to the reported killing of some  
8 200 people, including a Japanese photojournalist,  
9 and hundreds of injuries. Human rights groups fur-  
10 ther estimate that over 2,000 individuals have been  
11 detained, arrested, imprisoned, beaten, tortured, or  
12 otherwise intimidated as part of this crackdown. The  
13 Burmese regime continues to detain, torture, and  
14 otherwise intimidate those individuals whom it be-  
15 lieves participated in or led the protests and it has  
16 closed down or otherwise limited access to several  
17 monasteries and temples that played key roles in the  
18 protests.

19 (3) The Burmese regime and its supporters fi-  
20 nance their ongoing violations of human rights, un-  
21 democratic policies, and military activities through  
22 financial transactions, travel, and trade involving the  
23 United States, including the sale of gemstones. De-  
24 spite the sanctions imposed in the Burmese Freedom  
25 and Democracy Act of 2003, the Burmese regime

1 seeks out ways to evade these restrictions. Millions  
2 of dollars in gemstones that are exported from  
3 Burma ultimately enter the United States but the  
4 Burmese regime attempts to conceal the origin of  
5 the gemstones in an effort to evade the sanctions in  
6 the Burmese Freedom and Democracy Act of 2003.  
7 For example, over 90 percent of the world’s ruby  
8 supply originates in Burma but only three percent of  
9 the rubies entering the United States are claimed to  
10 be of Burmese origin. The value of Burmese  
11 gemstones is more than 99 percent a function of  
12 their original quality and geological origin, and not  
13 a result of the labor involved in cutting and  
14 polishing the gemstones.

15 **SEC. 3. AMENDMENTS TO THE BURMESE FREEDOM AND**  
16 **DEMOCRACY ACT OF 2003.**

17 (a) ANNUAL RENEWAL RESOLUTIONS NO LONGER  
18 REQUIRED.—

19 (1) IN GENERAL.—Subsection (b) of section 9  
20 of the Burmese Freedom and Democracy Act of  
21 2003 is amended to read as follows:

22 “(b) CONTINUATION OF IMPORT SANCTIONS.—The  
23 import restrictions under section 3(a)(1) shall continue  
24 until such time as such restrictions are terminated—

1           “(1) pursuant to the enactment into law of a  
2 joint resolution of the two Houses of Congress, the  
3 sole matter after the resolving clause of which is as  
4 follows: ‘That Congress terminates the import re-  
5 strictions under section 3(a)(1) of the Burmese  
6 Freedom and Democracy Act of 2003.’; or

7           “(2) by the President in accordance with sub-  
8 section (a).”.

9           (2) REPEAL.—Section 9 of such Act is amend-  
10 ed by striking subsection (c).

11          (b) IMPORT RESTRICTIONS ON GEMSTONES.—Para-  
12 graph (1) of section 3(a) of the Burmese Freedom and  
13 Democracy Act of 2003 is amended by striking the period  
14 at the end and inserting the following: “, including the  
15 importation of any gemstone or rough unfinished geologi-  
16 cal material mined or extracted from Burma, whether im-  
17 ported as a loose item or as any part or component of  
18 a finished piece of jewelry. Such restriction on such impor-  
19 tation shall not be deemed to be an amendment to the  
20 general rules of origin applied by the United States.”.

21          (c) VISA BAN.—Paragraph (1) of section 6(a) of the  
22 Burmese Freedom and Democracy Act of 2003 is amend-  
23 ed to read as follows:

24           “(1) VISA BAN.—

1           “(A) IN GENERAL.—The Secretary of  
2 State shall deny the issuance of a visa and the  
3 Secretary of Homeland Security shall deny ad-  
4 mission to the United States to—

5           “(i) former and present leadership of  
6 the SPDC or the Union Solidarity Devel-  
7 opment Association;

8           “(ii) any member of the Burmese  
9 military involved in the violent repression  
10 of the public protests in Burma in August,  
11 September, and October 2007;

12           “(iii) any Burmese official who has  
13 engaged in, ordered, or facilitated acts of  
14 gross violations of internationally recog-  
15 nized human rights (as defined in section  
16 502B(d)(1) of the Foreign Assistance Act  
17 of 1961 (22 U.S.C. 2304(d)(1)), either as  
18 an individual or as a member of a group  
19 or government; and

20           “(iv) any member of the immediate  
21 family of any individual described in  
22 clauses (i), (ii), or (iii).

23           “(B) WAIVER.—The ban described in sub-  
24 paragraph (A) may be waived only if the Presi-  
25 dent determines and certifies in writing to Con-

1           gress that such is in the national interests of  
2           the United States.”.

3           (d) FREEZING ASSETS OF THE BURMESE REGIME IN  
4 THE UNITED STATES.—Section 4 of the Burmese Free-  
5 dom and Democracy Act of 2003 is amended—

6           (1) by redesignating subsections (b) and (c) as  
7           subsection (c) and (d); and

8           (2) by inserting after subsection (a) the fol-  
9           lowing new subsection:

10          “(b) BLOCKING OF ASSETS AND OTHER PROHIBITED  
11 ACTIVITIES.—

12           “(1) IN GENERAL.—The President shall block  
13           all property and interests in property, including all  
14           commercial, industrial, or public utility undertakings  
15           or entities, that, on or after the date of the enact-  
16           ment of the Block Burmese JADE (Junta’s Anti-  
17           Democratic Efforts) Act of 2007—

18           “(A) are owned, in whole or in part, by an  
19           individual on the list specified in section  
20           6(a)(1)(A); and

21           “(B) are in the United States, or in the  
22           possession or control of the Government of the  
23           United States or of any United States financial  
24           institution, including any branch or office of

1           such financial institution that is located outside  
2           the United States.

3           “(2) PROHIBITED ACTIVITIES.—Activities pro-  
4           hibited by reason of the blocking of property and in-  
5           terests in property under paragraph (1) shall in-  
6           clude—

7                   “(A) payments or transfers of any prop-  
8                   erty, or any transactions involving the transfer  
9                   of anything of economic value by any United  
10                  States person, including any United States fi-  
11                  nancial institution and any branch or office of  
12                  such financial institution that is located outside  
13                  the United States, to an individual on the list  
14                  specified in section 6(a)(1)(A);

15                   “(B) direct or indirect payments of any  
16                   tax, cancellation penalty, or any other amount  
17                   to the Burmese Government;

18                   “(C) the export or reexport to any entity  
19                   owned, controlled, or operated by such an indi-  
20                   vidual directly or indirectly, of any goods, tech-  
21                   nology, or services by a United States person;  
22                   or

23                   “(D) the performance by any United  
24                   States person of any contract, including a con-  
25                   tract providing a loan or other financing, in

1 support of an industrial, commercial, or public  
2 utility operated, controlled, or owned by such  
3 an individual.

4 “(3) EXTENSION OF AUTHORITY.—The Presi-  
5 dent may block all property and interests in property  
6 of the following persons, to the same extent as prop-  
7 erty and interests in property of a foreign person de-  
8 termined to have committed acts of terrorism for  
9 purposes of Executive Order No. 13224 of Sep-  
10 tember 21, 2001, (50 U.S.C. 1701 note) may be  
11 blocked:

12 “(A) Persons and financial institutions  
13 who assist or provide financial, material, or  
14 technological support for, or financial or other  
15 services to or in support of, an individual on the  
16 list specified in section 6(a)(1)(A) or entities  
17 owned or effectively controlled by such an indi-  
18 vidual.

19 “(B) Persons otherwise associated with  
20 such an individual.

21 “(4) RULE OF CONSTRUCTION.—Nothing in  
22 this subsection shall be construed to prohibit any  
23 contract or other financial transaction with any non-  
24 governmental humanitarian organization in Burma.

1           “(5) EXCEPTIONS.—The prohibitions and re-  
2           strictions described in paragraphs (1), (2), and (3)  
3           shall not apply to medicine, medical equipment or  
4           supplies, food, or any other form of humanitarian  
5           assistance provided to Burma as relief in response to  
6           a humanitarian crisis.

7           “(6) PENALTIES.—Any person who violates any  
8           prohibition or restriction described in paragraph (1),  
9           (2), or (3) shall be subject to the penalties under  
10          section 6 of the International Emergency Economic  
11          Powers Act (50 U.S.C. 1705) to the same extent as  
12          for a violation under that Act.

13          “(7) UNITED STATES PERSON DEFINED.—In  
14          this subsection, the term ‘United States person’  
15          means—

16                 “(A) any United States citizen or alien  
17                 lawfully admitted for permanent residence to  
18                 the United States;

19                 “(B) any entity organized under the laws  
20                 of the United States, and any foreign branch or  
21                 subsidiary of such an entity; and

22                 “(C) any person in the United States.”.

1 **SEC. 4. DENIAL OF TAX BENEFITS RELATING TO THE BUR-**  
2 **MESE REGIME.**

3 (a) **IN GENERAL.**—No deduction or credit against tax  
4 shall be allowed under the Internal Revenue Code of 1986  
5 with respect to amounts paid or incurred with respect to  
6 the Burmese Government, the SPDC, or a joint produc-  
7 tion agreement relating to the Yadana gas field or pipe-  
8 line.

9 (b) **EFFECTIVE DATE.**—This section shall apply to  
10 amounts paid or incurred after the date of the enactment  
11 of this Act.

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