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S. 2257

To impose sanctions on officials of the State Peace and Development Council in Burma, to amend the Burmese Freedom and Democracy Act of 2003 to prohibit the importation of gemstones and hardwoods from Burma, to promote a coordinated international effort to restore civilian democratic rule to Burma, and for other purposes.

IN THE SENATE OF THE UNITED STATES

October 29, 2007

Mr. BIDEN (for himself, Mr. MCCONNELL, Mrs. BOXER, Mr. DODD, Mr. LEAHY, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To impose sanctions on officials of the State Peace and Development Council in Burma, to amend the Burmese Freedom and Democracy Act of 2003 to prohibit the importation of gemstones and hardwoods from Burma, to promote a coordinated international effort to restore civilian democratic rule to Burma, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the `Burma Democracy Promotion Act of 2007'.

SEC. 2. FINDINGS.

Congress makes the following findings:

- (1) Beginning on August 19, 2007, hundreds of thousands of citizens of Burma, including thousands of Buddhist monks and students, participated in peaceful demonstrations against rapidly deteriorating living conditions and the violent and repressive policies of the State Peace and Development Council, the ruling military regime in Burma--
 - (A) to demand the release of all political prisoners, including 1991 Nobel Peace Prize winner Aung San Suu Kyi; and
 - (B) to urge the SPDC to engage in meaningful dialogue to pursue national reconciliation.

(2) The SPDC violently confronted unarmed demonstrators, killing, injuring, and imprisoning citizens, including several thousand Buddhist monks, and continues to forcefully restrict peaceful forms of public expression.

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

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

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

(5) On September 25, 2007, President Bush announced that the United States would--

- (A) tighten economic sanctions against Burma, and block property and interests in property of--
 - (i) certain senior leaders of the SPDC;
 - (ii) individuals who provide financial backing for the SPDC; and
 - (iii) individuals responsible for violations of human rights and for impeding the transition to democracy in Burma; and
- (B) impose an expanded visa ban on individuals--
 - (i) responsible for violations of human rights; and
 - (ii) who aid, abet, or benefit from the efforts of the SPDC to impede the efforts of the people of Burma to transition to democracy and ensure respect for human dignity.

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

(7) The SPDC seeks to evade the sanctions imposed in the Burmese Freedom and Democracy Act of 2003. Millions of dollars in gemstones that are exported from Burma ultimately enter the United States, but the Burmese regime attempts to conceal the origin of the gemstones in an effort to evade sanctions. For example, over 90 percent of the world's ruby supply originates in Burma but only 3 percent of the rubies entering the United States are claimed to be of Burmese origin. The value of Burmese gemstones is predominantly based on their original quality and geological origin, rather than the labor involved in cutting and polishing the gemstones.

(8) Burma is home to approximately 60 percent of the world's native teak reserves. More than 1/4 of the world's internationally traded teak originates from Burma, and hardwood sales, mainly of teak, represent more than 11 percent of Burma's official foreign exchange earnings.

(9) Burma officially exports tens of millions of dollars worth of rubies, sapphires, pearls, jade, and other precious stones each year and the SPDC owns a majority stake in all mining operations within the borders of Burma.

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

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

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

SEC. 3. DEFINITIONS.

In this Act:

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

(2) APPROPRIATE CONGRESSIONAL COMMITTEES- The term `appropriate congressional committees' means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(3) ASEAN- The term `ASEAN' means the Association of Southeast Asian Nations.

(4) PERSON- The term `person' means--

(A) an individual, corporation, company, business association, partnership, society, trust, any other nongovernmental entity, organization, or group; and

(B) any successor, subunit, or subsidiary of any person described in subparagraph (A).

(5) SPDC- The term `SPDC' means the State Peace and Development Council, the ruling military regime in Burma.

(6) UNITED STATES PERSON- The term `United States person' means--

- (A) an individual who is a citizen of the United States or who owes permanent allegiance to the United States; and
- (B) a person that is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if individuals described in subparagraph (A) own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such entity.

SEC. 4. STATEMENT OF POLICY.

It is the policy of the United States to--

- (1) condemn the continued repression carried out by the SPDC;
- (2) work with the international community, especially the People's Republic of China, India, Thailand, and ASEAN, to foster support for the legitimate democratic aspirations of the people of Burma and to coordinate efforts to impose sanctions on those directly responsible for human rights abuses in Burma;
- (3) provide all appropriate support and assistance to aid a peaceful transition to constitutional democracy in Burma;
- (4) support international efforts to alleviate the suffering of Burmese refugees and address the urgent humanitarian needs of the Burmese people; and
- (5) identify individuals responsible for the repression of peaceful political activity in Burma and hold them accountable for their actions.

SEC. 5. SANCTIONS.

(a) List of Officials of the SPDC-

(1) IN GENERAL- Not later than 30 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a list of--

(A) officials of the SPDC who have played a direct and substantial role in the repression of peaceful political activity in Burma or in the commission of other human rights abuses, including any current or former officials of the security services and judicial institutions of the SPDC; and

(B) any other Burmese persons who provide substantial economic and political support for the SPDC.

(2) UPDATES- The President shall regularly submit updated versions of the list required under paragraph (1).

(b) Sanctions-

(1) VISA BAN- A person included on the list required under subsection

(a) shall be ineligible for a visa to enter the United States.

(2) WAIVER- The ban described in subparagraph (1) may be waived only if the President submits written certification to Congress that such waiver is in the national interests of the United States.

(3) FINANCIAL SANCTIONS-

(A) BLOCKED PROPERTY- No property or interest in property belonging to a person described in subparagraph (C) may be transferred, paid, exported, withdrawn, or otherwise dealt with if--

- (i) the property is located in the United States or within the possession or control of a United States person, including the overseas branch of a United States person; or
- (ii) the property comes into the possession or control of a United States person after the date of the enactment of this Act.

(B) FINANCIAL TRANSACTIONS- No United States person may engage in a financial transaction with the SPDC or with a person described in subparagraph (C).

(C) PERSON DESCRIBED- A person is described in this subparagraph if the person is--

- (i) an official of the SPDC;
- (ii) included on the list required under subsection (a); or
- (iii) an immediate family member of a person included on the list required under subsection (a), if the President determines that the person included on the list--
 - (I) effectively controls the property, for purposes of subparagraph (A); or
 - (II) would benefit from a financial transaction, for purposes of subparagraph (B).

(c) Authority for Additional Banking Sanctions-

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

- (A) by a foreign banking institution that holds property or an interest in property belonging to a person on the list required under subsection (a); or
- (B) to conduct a transaction on behalf of a person on the list required under subsection (a).

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

(d) Rule of Construction- Nothing in this section may be construed to prohibit any contract or other financial transaction with any nongovernmental humanitarian organization in Burma.

(e) Exceptions-

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

(2) ADDITIONAL EXCEPTIONS- The Secretary of the Treasury may, by regulation, authorize exceptions to the prohibitions and restrictions described in subsection (b) and (c)--

(A) to permit the United States to operate its diplomatic mission;

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

(C) for such other purposes as the Secretary determines to be necessary.

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

(g) Termination of Sanctions- The sanctions imposed under subsection (b) or (c) shall apply until the President determines and certifies to the appropriate congressional committees that the SPDC has--

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

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

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

(h) Authorization of Appropriations- There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6. PROHIBITION ON IMPORTATION OF BURMESE GEMS, HARDWOODS, AND OTHER ITEMS.

Section 3(a)(1) of the Burmese Freedom and Democracy Act of 2003 (50 U.S.C. 1701 note) is amended by striking 'a product of Burma.' and inserting 'produced, mined, manufactured, grown, or assembled in Burma, including--

`(A) any gemstone or rough unfinished geological material mined or extracted from Burma, whether imported as a loose item or as a component of a finished piece of jewelry; and

`(B) any teak or other hardwood timber, regardless of the country in which such hardwood timber is milled, sawn, or otherwise processed, whether imported in unprocessed form or as a part or component of finished furniture or another wood item.'.

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

(a) United States Special Representative and Policy Coordinator for Burma- The President shall appoint a Special Representative and Policy Coordinator for Burma, by and with the advice and consent of the Senate.

(b) Rank- The Special Representative and Policy Coordinator for Burma appointed under subsection (a) shall have the rank of ambassador and shall hold the office at the pleasure of the President.

(c) Duties and Responsibilities- The Special Representative and Policy Coordinator for Burma shall--

- (1) promote a comprehensive international effort, including multilateral sanctions, direct dialogue with the SPDC and democracy advocates, and support for nongovernmental organizations operating in Burma and neighboring countries, designed to restore civilian democratic rule to Burma and address the urgent humanitarian needs of the Burmese people;
- (2) consult broadly, including with the Governments of the People's Republic of China, India, Thailand, and Japan, and the members of ASEAN and the European Union to coordinate policies toward Burma;
- (3) assist efforts by the United Nations Special Envoy to secure the release of all political prisoners in Burma and to promote dialogue between the SPDC and leaders of Burma's democracy movement, including Aung San Suu Kyi;
- (4) consult with Congress on policies relevant to Burma and the future and welfare of all the Burmese people, including refugees; and
- (5) coordinate the imposition of Burma sanctions within the United States Government and with the relevant international financial institutions.

SEC. 8. SENSE OF CONGRESS ON COORDINATION WITH THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS.

It is the sense of Congress that the United States--

- (1) joins the foreign ministers of member nations of ASEAN that have expressed concern over the human rights situation in Burma;
- (2) encourages ASEAN to take more substantial steps to ensure a peaceful transition to democracy in Burma;
- (3) welcomes steps by ASEAN to strengthen its internal governance through the adoption of a formal ASEAN charter;
- (4) urges ASEAN to ensure that all members live up to their membership obligations and adhere to the core principles of ASEAN, including respect for, and commitment to, human rights; and
- (5) would welcome a decision by ASEAN, consistent with its core documents and its new charter, to review Burma's membership in ASEAN and consider appropriate disciplinary measures, including suspension, until such time as the Government of Burma has demonstrated an improved respect for, and commitment to, human rights.

SEC. 9. SUPPORT FOR CONSTITUTIONAL DEMOCRACY IN BURMA.

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

(b) Authorization of Appropriations- There are authorized to be appropriated \$10,000,000 to the Secretary of State for each of the fiscal years 2008 and 2009 to--

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

SEC. 10. SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS ADDRESSING THE HUMANITARIAN NEEDS OF THE BURMESE PEOPLE.

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

(b) Licenses for Humanitarian or Religious Activities in Burma- Section 5 of the Burmese Freedom and Democracy Act of 2003 (50 U.S.C. 1701) is amended--

(1) by inserting '(a) Opposition to Assistance to Burma' before 'The Secretary'; and

(2) by adding at the end the following:

'(b) Licenses for Humanitarian or Religious Activities in Burma- Notwithstanding any other provision of law, the Secretary of the Treasury is authorized to issue multi-year licenses for humanitarian or religious activities in Burma. Licenses issued pursuant to this section shall be subject to annual review.'

(c) Authorization of Appropriations- There are authorized to be appropriated \$20,000,000 to the Secretary of State for each of the fiscal years 2008 and 2009 to support operations by nongovernmental organizations designed to address the humanitarian needs of the Burmese people inside Burma and in refugee camps in neighboring countries.

SEC. 11. REPORT ON MILITARY AID TO BURMA.

(a) In General- Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees that--

- (1) contains a list of countries that provide military aid to Burma; and
- (2) describes the military aid provided by each of the countries described in paragraph (1).

(b) Military Aid Defined- In this section, the term 'military aid' includes--

- (1) the provision of weapons, military vehicles, and military aircraft;
- (2) the provision of military training; and
- (3) conducting joint military exercises.

(c) Form- The report required under subsection (a) shall be submitted in unclassified form and may include a classified annex.

SEC. 12. SENSE OF CONGRESS ON INTERNATIONAL ARMS SALES TO BURMA.

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

END