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SENATE

{ REPORT  
{ 110-146

### APPROVING THE RENEWAL OF IMPORT RESTRICTIONS CONTAINED IN THE BURMESE FREEDOM AND DEMOC- RACY ACT OF 2003

AUGUST 29, 2007.—Ordered to be printed

Filed, under authority of the order of the Senate of August 3, 2007

Mr. BAUCUS, from the Committee on Finance,  
submitted the following

### R E P O R T

[To accompany S.J. Res. 16]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the joint resolution (S.J. Res. 16) approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, having considered the same, reports favorably thereon without amendment and recommends that the joint resolution do pass.

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## I. REPORT AND OTHER MATTERS OF THE COMMITTEE

### A. REPORT OF THE COMMITTEE ON FINANCE

The Committee on Finance, to which was referred the joint resolution (S.J. Res. 16) approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, having considered the same, reports favorably thereon without amendment and recommends that the resolution do pass.

### B. BACKGROUND

#### 1. *The Government of Burma*

Burma is governed by a military junta that took power in September 1988. The junta, the State Peace and Development Council (SPDC), violently suppressed pro-democracy demonstrators in September 1988. The junta allowed elections to a National Assembly in 1990, but it nullified the results when the opposition National League for Democracy (NLD) won most of the seats. Since 1990, reports from human rights organizations, the International Red Cross, and the U.S. State Department have described a pattern of SPDC policies featuring the suppression of political liberties, jailing of political prisoners (more than 1,100 estimated imprisoned in July 2007), widespread physical abuses, forced relocation of civilians, the impressment of civilians into military service, and the conscription of thousands of civilians for work on economic projects.

On May 30, 2003, a pro-government group of several hundred people assaulted the opposition NLD leader Daw Aung San Suu Kyi and her supporters near Mandalay, Burma's second-largest city. The attackers were members of the United Solidarity Development Association, a pro-government mass organization. Some NLD supporters were killed, and other NLD leaders were taken into custody. Serious human rights abuses by the Burmese Government have worsened in 2007. Arrests and disappearances of political activists continue. The military regime continues to be hostile to all forms of political opposition. Daw Aung San Suu Kyi remains under strict house arrest.

#### 2. *The Burmese Freedom and Democracy Act of 2003 (the Act)*

In response to the May 30th attack, the Burmese Freedom and Democracy Act of 2003 was introduced in the U.S. House of Representatives (H.R. 2330) and the U.S. Senate (S. 1182) on June 4, 2003. A revised version of the legislation was introduced in the Senate (S. 1215) on June 9, 2003. That latter version, S. 1215, passed the Senate with an amendment on June 11, 2003, by a recorded vote of 97–1. In the House, H.R. 2330 passed with an amendment on July 15, 2003, by a recorded vote of 418–2, 1 Present. The Senate then passed the House-passed version of H.R. 2330 without amendment on July 16, 2003, by a recorded vote of 94–1. The legislation was presented to the President on July 22, 2003, and signed into law by the President on July 28, 2003 (Pub. L. 108–61).

The Act bans the importation of any article produced in Burma. This ban affects mainly imports of Burmese textiles and garments. The Act allows the President to lift these import restrictions if he certifies to Congress that the SPDC has made major progress to

end human rights violations, including rapes, forced and child labor, and conscription of child-soldiers, released political prisoners, allowed political, religious, and civil liberties, and reached agreement with the NLD for a civilian government chosen through democratic elections. Under the Act, the import ban must be renewed on a yearly basis. In addition to the import ban, the Act freezes Burmese assets in the United States and requires the United States to oppose aid to Burma by international financial institutions.

As originally enacted, section 9(a)(1) of the Act limited the imposition of import restrictions to a maximum of three years. In 2006, a joint resolution was introduced to permit the renewal of import restrictions for a maximum of 6 years; specifically, H.J. Res. 86 was introduced in the House on May 19, 2006, and S.J. Res. 38 was introduced in the Senate on May 26, 2006. The House passed H.J. Res. 86 on July 11, 2006 by voice vote. H.J. Res. 86 was placed on the Senate calendar on July 26, 2006 and passed without amendment by voice vote. The President signed the joint resolution on August 1, 2006 (Pub. L. 109–251). H.J. Res. 86 also provided for a 1-year renewal of import restrictions, i.e. until July 28, 2007.

Pursuant to section 9(b) of the Act, the import ban will expire after 1 year unless a new joint resolution (“renewal resolution”) approving a 1-year renewal of the import ban is enacted into law prior to the anniversary of the date of enactment of the Act. The purpose of S.J. Res. 16 is to comply with the Act’s requirement in order to renew the import ban for another year, i.e. until July 28, 2008. A similar resolution (H.J. Res. 44), which included budgetary offsets, was passed by the House on July 23, 2007 by voice vote. H.J. Res. 44 was placed on the Senate Calendar on July 24, 2007 and passed by a recorded vote of 93–1. The President signed the joint resolution on August 1, 2007 (Pub. L. 110–52).

### *3. Expedited Procedures for Renewing the Import Restrictions Contained in the Burmese Freedom and Democracy Act of 2003*

Section 9(c)(2)(B) of the Act incorporates the expedited procedures set forth in section 152 (b), (c), (d), (e), and (f) of the Trade Act of 1974 (19 U.S.C. 2192 (b), (c), (d), (e), and (f)), for consideration of a joint resolution to renew the import ban for another year.

Pursuant to those procedures, a renewal resolution introduced in the Senate shall be referred to the Finance Committee. The Finance Committee has 30 days to consider and report the resolution, not counting any day excluded under section 154(b) of the Trade Act of 1974. Section 154(b) excludes Saturdays and Sundays when either House is not in session, any day during which either House is adjourned for more than 3 days, and any day while Congress is adjourned sine die. A renewal resolution is not amendable. If the Committee does not report the resolution within that period, it is in order for any Member favoring the resolution to move to discharge the Committee from further consideration of the resolution.

If, as in this case, a renewal resolution is introduced in the Senate before receipt of an identical resolution from the House, and the House passes its resolution before the Committee reports the Senate measure, then upon receipt of the House-passed measure the House resolution shall be placed on the Senate calendar and the Committee shall continue to report the Senate measure or be

discharged from further consideration of the Senate measure, as noted. After the Committee reports the Senate measure, the vote on passage in the Senate shall then be on the identical House-passed measure.

#### *4. Committee Consideration of S.J. Res. 16*

The Committee considered S.J. Res. 16 in open executive session on July 23, 2007. The Committee voted unanimously, and without amendment, to favorably report S.J. Res. 16.

With a quorum present, the Committee approved S.J. Res. 16 by roll call vote, 21 ayes, 0 nays:

Ayes: Baucus, Rockefeller, Conrad, Bingaman (proxy), Kerry, Lincoln (proxy), Wyden, Schumer, Stabenow, Cantwell, Salazar, Grassley, Hatch, Lott (proxy), Snowe, Kyl (proxy), Smith, Bunning, Crapo, Roberts, Ensign.

The Chairman reported the resolution to the Senate on July 24, 2007.

#### *5. Report of the U.S. Department of State on the Trade Sanctions Against Burma*

On May 29, 2007, the State Department submitted to Congress a report regarding the trade sanctions against Burma, as required by section 8(b)(3) of the Burmese Freedom and Democracy Act of 2003. At the request of the Chairman, that report was made a part of the record of the Committee's consideration of S.J. Res. 16. The State Department report is reprinted below:

### REPORT ON U.S. ECONOMIC SANCTIONS AGAINST BURMA

#### I. INTRODUCTION AND SUMMARY

In view of the impending expiration of the import ban contained in the Burmese Freedom and Democracy Act of 2003, P.L. 108–61 (the BFDA), as amended by H.J. Res. 86, P.L. 109–251 (2006), this report reviews bilateral and multilateral measures to promote human rights and democracy in Burma and assesses the effectiveness of the Act's trade provisions relative to the improvement of conditions in Burma and the furtherance of U.S. policy objectives.

Growing pressure by the United States and other countries sends a clear signal that the international community expects the Burmese regime, the State Peace and Development Council (SPDC), to take meaningful steps toward genuine national reconciliation and the establishment of democracy. U.S. sanctions are an important tool to exert such pressure on the regime to undertake democratic reforms.

The Administration continues diplomatic efforts at all levels to encourage other nations to press the Burmese regime to implement a genuine transition to democratic rule—and willingness to call for reforms in Burma is growing. U.S. punitive measures have not damaged U.S. bilateral relations with countries other than Burma, as a growing number of governments realize the need for concerted international pressure in many forms.

The European Union recently renewed its Common Position, which includes a variety of sanctions, such as a freeze on Burmese regime assets and a prohibition on extending credit to a list of state-run enterprises. Cooperation on Burma issues with other members of the international community continues bilaterally, as well as multilaterally at the various UN fora.

## II. BILATERAL AND MULTILATERAL MEASURES

### *United States government efforts*

The United States has a broad range of sanctions in place, including those enacted in 2003 under the BFDA and most recently renewed in 2006, and those set forth in Executive Order 13310 of July 28, 2003. These latest measures include bans on all imports from Burma and the export of financial services from the United States or by U.S. persons to Burma and an asset freeze that targets regime institutions and enterprises. In addition, on November 12, 2003, the Treasury Secretary designated Burma a jurisdiction of primary money laundering concern, resulting in additional restrictions on U.S. financial institutions, prohibiting them from establishing or maintaining any correspondent account for, or on behalf of, a Burmese financial institution. This designation was done pursuant to Section 311 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Obstruct Terrorism (USA PATRIOT) Act of 2001. These measures reinforce the existing restrictions on transactions with Burma under Executive Order 13310. The United States also maintains a variety of sanctions imposed against Burma before 2003, including a prohibition on new investment in Burma, a ban on arms sales to Burma, restrictions on bilateral assistance, and opposition to lending by international financial institutions. Pursuant to Presidential Proclamation 6925 of 1996, a U.S. visa ban restricts travel to the United States for all SPDC members; government ministers and other senior Burmese government officials; military officers above the rank of colonel; all officials of the Union Solidarity and Development Association (USDA); civil servants above the rank of Director General; and managers of state-owned enterprises. The visa restrictions cover the immediate family members of all the categories of individuals listed above.

Inside Burma, U.S. Embassy officials maintain frequent and active contacts with dissidents, representatives of the democratic opposition, major ethnic groups, and members of civil society. Most Burmese support U.S. sanctions and continued international pressure on the regime. Close relations with members of multilateral organizations and other diplomatic missions in Rangoon help focus the international community's efforts in support of national reconciliation. Although Embassy officials have limited contact with Burmese government officials, the Mission uses every opportunity to urge reform, an inclusive political dia-

logue, and respect for human rights. The continued detention of senior officials of the National League for Democracy (NLD) as well as over 1,100 political prisoners by the military junta blocks progress toward national reconciliation. The United States continues to call for the immediate and unconditional release of all political prisoners.

The United States coordinates with other members of the international community in support of democratic change in Burma. Historically, the United States has co-sponsored resolutions at the UN General Assembly that condemn the human rights situation in Burma and call for national reconciliation. On December 22, 2006, by a vote of 82 in favor, including the United States, 25 opposed, and 45 abstaining, the UN General Assembly adopted a resolution expressing its grave concern over human rights violations in Burma and calling on the regime to take urgent measures to address these violations. The General Assembly's Third Committee had adopted the same resolution on November 22, 2006. The United States successfully proposed placing Burma on the UN Security Council's agenda on September 15, 2006. The United States and the United Kingdom subsequently sponsored a resolution on Burma before the UN Security Council. In a vote on January 12, 2007, nine countries supported the resolution, three abstained, and three voted against. The "no" votes of China and Russia blocked the resolution.

#### *Efforts by other governments*

There is increasing agreement in the international community that the status quo in Burma is not sustainable, that it poses growing problems for the region, and that the regime needs to implement political and other reforms. The Chair of the Association of Southeast Asian Nations (ASEAN) Summit in Cebu, Philippines, issued a statement on January 13, 2007, which highlighted ASEAN's calls for the release of "those placed under detention and for effective dialogue with all parties concerned." The statement acknowledged that effectively managing important issues within the region, such as Burma, is key to preserving ASEAN's credibility. ASEAN foreign ministers expressed "concern on the pace of the national reconciliation process in Burma, and hope to see tangible progress that would lead to a peaceful transition to democracy in the near future." In Nuremberg, Germany, on March 15, 2007, EU and ASEAN foreign ministers called for greater progress toward national reconciliation in Burma, inclusive dialogue with all political parties and ethnic groups, and the release of political prisoners.

In April 2007, the European Union renewed restrictive measures that it had expanded in 2004, including visa and travel restrictions, an asset freeze list, and a ban on extending credit to a list of Burmese state-run enterprises. The EU also has in place a ban on arms sales and limits on assistance to the regime and calls on its members to

vote against assistance to Burma by international financial institutions, though they are not required to do so.

The United Kingdom has called on its companies to review their investments in Burma. During the UN Human Rights Council's fourth session in March 2007, Foreign Office Minister Ian McCartney decried the lack of respect for human rights and absence of good governance in Burma and looked forward to the Council addressing that situation.

Canada has expressed concern over the lack of progress in Burma and imposed visa and travel restrictions on Burmese officials following the May 30, 2003 attack on Aung San Suu Kyi and her supporters. Canada also has in place restrictions on exports and assistance to Burma.

Norway has sanctions similar to those of the EU, banning arms sales and enforcing a broad visa ban and asset freeze. Norway's Finance Ministry announced in April 2007 new guidelines that will prevent the country's pension fund from investing in Burmese government bonds. In addition, Norway has been a supporter of the Burmese exile movement and hosts a radio service and satellite TV station dedicated to providing uncensored information to those inside Burma.

Japan froze new development assistance to the regime in response to the May 30, 2003, attack, but continues funding humanitarian programs, democracy capacity-building projects, and those projects supporting structural economic reform on a case-by-case basis. The Government of Japan lamented the extension of Aung San Suu Kyi's house arrest in May 2006 and supported the U.S. proposal to add Burma to the UN Security Council's agenda in September 2006.

Australia has banned defense exports to Burma since 1988 and, following the May 2003 assault on Aung San Suu Kyi and other members of the National League for Democracy, has suspended certain forms of assistance. Foreign Minister Downer met with Burmese Foreign Minister Nyan Win in Kuala Lumpur on July 26, 2006, and urged the regime to address the need for democratic reform.

China continues to be Burma's primary economic partner and one of its primary military supporters. Although China vetoed the U.S. and U.K.-sponsored UN Security Council resolution on Burma, the Chinese explanation of its vote acknowledged "grave challenges relating to refugees, child labor, HIV/AIDS, human rights, and drugs" in Burma and called for an inclusive dialogue and accelerated reform in Burma. The United States continues to express our concerns about Burma in discussions with China.

In an apparent attempt to secure more effective Burmese cooperation in targeting Indian insurgent groups operating from within Burma, India reportedly has offered military equipment to the Burmese Army. India also seeks to tap Burma's natural gas reserves to meet its growing energy demands and to improve the transportation infra-

structure in western Burma to enhance India's remote northeastern states' access to the sea. The United States will continue to urge India to take steps to promote human rights and democracy in Burma.

*United Nations efforts*

Following the January 2006 resignation of Tan Sri Razali Ismail the UN Secretary General's Special Envoy to Burma, Under Secretary General Ibrahim Gambari visited Burma in May and November 2006. Under Secretary General Gambari briefed the UN Security Council following each trip. Although it granted Gambari access to Aung San Suu Kyi and regime leaders, the SPDC did not respond to his substantive requests that the regime free political prisoners, engage in an inclusive political dialogue, end violence against civilians in ethnic minority areas, and lift restrictions on humanitarian organizations. The United States and others have voiced their support for the appointment of a new Special Envoy to continue the UN Secretary General's "Good Offices Mission" to Burma.

On October 20, 2006, UN Special Rapporteur on human rights in Burma Paulo Sergio Pinheiro reported to the UN General Assembly his concerns about the continued systematic human rights violations and other human rights issues in Burma. These included the persecution of democracy activists and human rights advocates, forced labor, the military offensives in eastern Burma, and the generally poor social and economic conditions. In his February 12, 2007, report to the Human Rights Council, Pinheiro asserted that because the regime has severely curtailed the civil and political space within Burma, its "road map to democracy faces too many obstacles to bring about a genuine transition." Burma's military regime has not permitted Pinheiro to visit Burma since November 2003.

The Sixth Secretary General's report to the General Assembly on Children and Armed Conflict, submitted in November 2006, cited reliable reports of continued recruitment of child soldiers by the Burmese military and by non-state armed groups. The report observed that the regime's decision to prosecute those who make "false" allegations of forced labor and its restrictions on access to certain areas due to "security reasons" prevented the UN from providing more detailed information on the impact of armed conflict on Burma's children.

During its November 15-16, 2006, meeting, the International Labor Organization's (ILO) Governing Body expressed frustration that the Burmese authorities had not agreed on a mechanism to deal with complaints of forced labor. It called for the Burmese authorities to conclude with the ILO an agreement on such a mechanism as a matter of utmost urgency. In addition, the Governing Body stated that any move to prosecute complainants of forced labor would be a violation of ILO Convention No. 29 and would open the way to legal options, including potential referral of Burma to the International Court of Justice (ICJ).

On February 26, 2007, the ILO announced that it had reached an agreement that would allow its liaison officer to conduct preliminary probes into alleged instances of forced labor without complainants being victimized. At its March 2007 meeting, the Governing Body welcomed this agreement and stressed the importance of its full implementation given the serious forced labor problems in Burma. The Governing Body also called on the Burmese government to facilitate the expansion of staff at the ILO liaison office.

The UN country team inside Burma has focused its efforts on a range of humanitarian issues, though its efforts have been hampered by regime-imposed restrictions on programs implemented by UN agencies and NGOs providing humanitarian assistance and carrying out other projects. The United States backs UN initiatives to address the spread of HIV/AIDS, prevent and contain outbreaks of avian influenza, support returned Burmese Muslim (Rohingya) refugees and other vulnerable individuals, and fight narcotics trafficking/production. The UN High Commissioner for Refugees (UNHCR) provides protection and humanitarian assistance for the communities of Rohingya in Northern Rakhine State, many of whom returned to Burma after fleeing to Bangladesh in the 1990s. U.S. officials in Rangoon maintain close communication with UN counterparts.

### III. EFFECTS OF ECONOMIC SANCTIONS

The Treasury Department reports that it blocked 53 transactions involving Burmese entities totaling \$1.1 million between October 27, 2006, and April 9, 2007. Over the same period, the Treasury Department issued 26 licenses authorizing the release of blocked funds or otherwise prohibited transactions.

#### *Political and economic situation*

The regime continues to follow its seven-step “road map to democracy,” which it announced in 1993 following international pressure. A key component of the roadmap is the convening of the National Convention to draft a set of “guiding principles” for a new constitution. The regime handpicked pro-regime delegates to attend the Convention, imposed conditions that effectively barred the NLD and other pro-democracy groups from participating, and prohibited free and open debate. The Convention’s most recent session took place from October 10 to December 29, 2006. The regime has stated its intention to conclude the National Convention before the end of 2007. Absent the participation of the democratic opposition and pro-democracy ethnic minority political groups, the National Convention does not reflect the true political aspirations of the Burmese people, nor does it serve as a real forum for the meaningful dialogue that is needed to achieve genuine national reconciliation. Given these deep flaws, any constitution that emerges from the National Convention would

lack legitimacy and would not constitute a meaningful step toward the establishment of democracy in Burma. The regime has not announced a timetable for future steps on its road map, including a transition to democracy.

In May 2006, the regime extended the detention of Aung San Suu Kyi for an additional twelve months. Her current period of house arrest is due to expire on May 27, 2007. If renewed, her access to medical care and contacts with the outside world would continue to be restricted, leaving her virtually incommunicado. In February 2007, authorities also extended the detention of National League for Democracy Vice Chairman U Tin Oo. In late September 2006, authorities detained five democracy activists and held them in custody until January 11, the day before the UN Security Council voted on a resolution regarding Burma.

The Karen National Union (KNU), an ethnically based insurgent group that also seeks a transition to democracy in Burma suffered open rifts following the December 26 death of former KNU leader Bo Mya. One faction, the Karen National Liberation Army—Peace Council, reportedly has engaged in talks with the SPDC. After over five decades of conflict and in the absence of a final peace agreement, portions of Karen and Mon States remain isolated from international economic and humanitarian assistance. The lingering conflict also precludes the voluntary repatriation from Thailand of thousands of refugees with UNHCR involvement and the return home of thousands of internally displaced persons.

Burma's economy continued to grow slowly, due largely to rising energy exports. The Asian Development Bank (ADB) estimated that Burma's economy would grow at a rate of 2–4 percent for 2006 and 2007. Nonetheless, Burmese citizens saw little to no benefit from this growth due to high inflation, widespread corruption, excessive government control of the economy, and a fiscal policy that woefully under-invests in public goods and services. The ADB estimated that inflation was rising and could reach an average of 30 percent—compared with an official rate of 10 percent—in 2006–07. In Transparency International's latest—Corruption Perceptions Index, released November 6, 2006, only Haiti surpassed Burma in the extent of perceived corruption. Routine delays and unpredictability in the issuance of licenses and import permits also impeded entrepreneurship. By requiring businesses to conduct all government transactions in the newly declared administrative capital of Nay Pyi Taw, the regime imposed additional costs and delays on businesses. Farmers were forced to sell their produce to the regime at prices far below market value, undermining rural incomes. The military regime, its commercial entities, and crony companies continued to control the most lucrative sectors of the Burmese economy, such as natural gas, precious gemstones, and timber. Despite these unsound policies, the economy continues to function.

*Human rights*

Despite the Burmese Government's purported desire to make progress toward democracy, its extremely poor human rights record has worsened over the past year, and it has continued to commit serious abuses. The State Department's annual report on the human rights situation in Burma for 2006 noted that citizens of Burma still do not have the right to change their government, and that security forces have continued to commit extrajudicial killings and rape, forcibly relocate persons, use forced labor, and forcibly conscript civilians into militia units. The military regime continues to be hostile to all forms of political opposition. With the exception of its Rangoon headquarters, all of the NLD's offices remain closed. Arrests and disappearances of political activists continue, and members of the security forces torture, beat, and otherwise abuse prisoners and detainees. On March 15, 2007, the International Committee of the Red Cross (ICRC) announced that, as a result of restrictions placed upon its activities in Burma by the military regime, it would have to close two of its field offices. The regime bars ICRC staff from conducting unaccompanied visits to places of detention and from conducting its activities independently in Burma's border areas.

IV. EFFECTS OF SANCTIONS POLICY ON BROADER POLICY  
INTERESTS AND RELATIONS

U.S. steadfastness sends a clear signal to the regime and the Burmese people of U.S. support for positive change. The measures in place have the broad backing of Burmese democracy activists.

The trade-related and financial sanctions implemented pursuant to the Burmese Freedom and Democracy Act of 2003 and Executive Order 13310 have had a limited impact on U.S. relations with other nations. Although some foreign businesses and their representative embassies complained about the immediate impact in 2003 on their operations, all who have invested in Burma have done so recognizing the difficult operating environment and overall poor economic climate created by the regime. Furthermore, many U.S. and other companies had already pulled out of Burma prior to the passage of the Burmese Freedom and Democracy Act of 2003.

The vast majority of the democratic opposition remains very supportive of U.S. sanctions and urges additional steps to pressure the government. However, some opposition figures, academics, and exiled Burmese have questioned whether the sanctions have any chance of success without the participation of Burma's major trading partners, including ASEAN members, China, India, and other regional countries.

Sanctions and multilateral pressure on Burma have advanced U.S. national security interests in the international effort against money laundering. The Financial Action

Task Force (FATF), an intergovernmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing, placed Burma on its list of non-cooperating countries and territories in June 2001 as a result of laws and practices that impeded international cooperation in the fight against money laundering. In November 2003, the U.S. Secretary of the Treasury designated Burma a jurisdiction of primary money laundering concern, prohibiting U.S. financial institutions from establishing or maintaining any correspondent account for, or on behalf of, a Burmese financial institution. These steps by the international community, including the United States, produced results in Burma. Following a series of legal and regulatory reforms, FATF informed the Burmese regime on October 24, 2006, that, "as a result of Myanmar's enactment of and on-going efforts to implement reforms to its anti-money laundering regime, the FATF Plenary has decided to remove Myanmar from the non-cooperative countries and territories list." The FATF is monitoring Burma to ensure that it makes further progress in this area.

#### CONCLUSION

International pressure on the Burmese regime and support for the Burmese democracy movement continue to be essential for promoting change in Burma. The Administration remains unwavering in its support for the establishment of democracy and a greatly improved human rights situation there. Our sanctions send a strong message about the U.S. desire to see positive change in Burma, constantly remind the regime that its behavior is unacceptable, and provide crucial moral support to Burma's democratic opposition. Failure to renew the import ban, absent positive change by the regime, would send the wrong political message. The State Department unequivocally supports a renewal resolution maintaining in place the current import ban.

## II. BUDGETARY IMPACT OF THE JOINT RESOLUTION

JULY 30, 2007.

Hon. MAX BAUCUS,  
*Chairman, Committee on Finance,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S.J. Res. 16, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Emily Schlect.

Sincerely,

ROBERT A. SUNSHINE  
(For Peter R. Orszag, Director).

Enclosure.

*S.J. Res. 16—A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003*

Summary: S.J. Res. 16 would renew for one year the ban of all imports from Burma. The ban was originally enacted as the Burmese Freedom and Democracy Act of 2003 (Public Law 108–61) and was set to expire on July 28, 2004. Public Law 108–272 renewed the ban for one year through July 28, 2005; Public Law 109–39 renewed the ban for one year through July 28, 2006; and Public Law 109–251 renewed the ban for one additional year through its current expiration date of July 28, 2007. The original legislation limited renewals of the ban to a total of three years. Public Law 109–251 increased that limit to six years, thereby allowing three additional one-year bans.

On July 24, 2007, the Congress cleared H.J. Res. 44, which renews the import ban for one year, as S.J. Res. 16 would. As a result, S.J. Res. 16 would not have any additional budgetary effect relative to Congressional actions to date.

In the absence of H.J. Res. 44, CBO estimates that extending the ban on U.S. imports from Burma would reduce federal revenues by less than \$500,000 in 2007 and by about \$2 million in 2008, with no effect thereafter. CBO estimates enacting S.J. Res. 16 would not affect federal spending.

Under S.J. Res. 16, the President could lift the import restrictions if the State Peace and Development Council, the military regime of Burma, has made substantial and measurable progress to end violations of human rights, implemented a democratic government, and met its obligations under international counter-narcotics agreements. The President also would have the authority to terminate the restrictions upon the request of a democratically elected government in Burma or waive them in the national interest.

By renewing the ban on all imports from Burma, S.J. Res. 16 would impose private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO cannot estimate the cost of those mandates because information on the value of lost profits to importers resulting from the ban is not available. Thus, CBO cannot determine whether the aggregate direct cost of the mandates would exceed the annual threshold for private-sector mandates established by UMRA (\$131 million in 2007, adjusted annually for inflation). CBO has also determined that S.J. Res. 16 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal government: The estimated budgetary impact of S.J. Res. 16—in the absence of H.J. Res. 44—is shown in the following table.

	By fiscal year, in millions of dollars—					
	2007	2008	2009	2010	2011	2012
CHANGES IN REVENUES						
Estimated Revenues .....	*	-2	0	0	0	0

\*=Loss of less than \$500,000.

H.J. Res. 44, recently cleared by the Congress, would have the same effect on federal revenues in 2007 and 2008. S.J. Res. 16

would have no additional budgetary impact, relative to H.J. Res. 44.

Basis of estimate: Under S.J. Res. 16, the President would have the authority to lift or waive the ban imposed by the resolution. For this estimate, CBO assumes that the President would not exercise this authority before the termination of the one-year ban.

Based on data from the U.S. International Trade Commission on recent U.S. imports from Burma, information from several government agencies, and CBO's most recent forecast of total U.S. imports, CBO estimates that enacting S.J. Res. 16 would reduce federal revenues by less than \$500,000 in 2007 and by about \$2 million in 2008, net of income and payroll tax offsets.

In recent years, over half of all U.S. imports from Burma have been knitted or crocheted clothing and apparel goods. The remaining imports include apparel items not knitted or crocheted, certain types of fish and crustaceans, goods made of wood, certain precious and semiprecious stones and metals, and woven fabrics and tapestries. In 2001 and 2002, roughly 80 percent of duties collected on these imports came from knitted and crocheted articles. CBO assumes that most of the banned imports would be replaced with imports from other countries.

The President could remove the ban on imports upon the request of a democratically elected government in Burma or if he were to determine and notify the Congress that to do so is in the national interest. Should the ban be lifted, U.S. companies would be allowed to resume importation of goods produced, manufactured, grown, or assembled in Burma. It is unclear whether or when the President would exercise the authority to lift or waive the ban on imports from Burma. If such action were taken during the 2007–2008 period, the impact on federal revenues would be reduced accordingly.

Estimated impact on state, local, and tribal governments: CBO has determined that S.J. Res. 16 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: By renewing the ban on all imports from Burma, S.J. Res. 16 would impose private-sector mandates as defined in UMRA. CBO cannot estimate the cost of those mandates because information on the value of lost profits to importers resulting from the ban is not available. Thus, CBO cannot determine whether the aggregate direct cost of the mandates would exceed the annual threshold for private-sector mandates established by UMRA (\$131 million in 2007, adjusted annually for inflation).

Previous CBO estimate: On July 25, 2007, CBO transmitted a cost estimate for H.J. Res. 44, approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, as cleared by the Congress on July 24, 2007. That legislation, like S.J. Res. 16, renews the ban on imports from Burma for one year; H.J. Res. 44 also extends merchandise processing fees and increases the amount of corporate income taxes due in 2012.

Estimate prepared by: Federal Revenues: Emily Schlect; Impact on State, Local, and Tribal Governments: Neil Hood; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: G. Thomas Woodward, Assistant Director for Tax Analysis.

### **III. REGULATORY IMPACT OF THE JOINT RESOLUTION AND OTHER MATTERS**

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that the resolution will not significantly regulate any individuals or businesses, will not affect the personal privacy of individuals, and will result in no significant additional paperwork.

The following information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. No. 104-04). The Committee has reviewed the provisions of S.J. Res. 16 as approved by the Committee on July 23, 2007. In accordance with the requirement of Pub. L. No. 104-04, the Committee has determined that the bill contains no intergovernment mandates, as defined in the UMRA, and would not affect the budgets of state, local, or tribal governments.

### **IV. CHANGES IN EXISTING LAW**

Pursuant to paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee finds no changes in existing law made by S.J. Res. 16, as ordered reported.

