

AMENDMENT TO RULES COMM. PRINT 116-19
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At the end of title XII, add the following new subtitle:

1 **Subtitle _____—Matters Relating to**
2 **Burma**

3 **SEC. 1281. LIMITATION ON SECURITY ASSISTANCE AND SE-**
4 **CURITY COOPERATION.**

5 (a) IN GENERAL.—Except as provided in subsection
6 (b), for the period beginning on the date of the enactment
7 of this subtitle and ending on the date described in sub-
8 section (c), the United States may not provide any security
9 assistance or engage in any security cooperation with any
10 of the military or security forces of Burma.

11 (b) EXCEPTIONS; WAIVER.—

12 (1) EXCEPTIONS.—

13 (A) CERTAIN EXISTING AUTHORITIES.—

14 Notwithstanding subsection (a), the Secretary
15 of Defense shall retain the authority granted by
16 section 1253 of the Carl Levin and Howard P.
17 “Buck” McKeon National Defense Authoriza-
18 tion Act for Fiscal Year 2015 (22 U.S.C. 2151
19 note). The limitation in subsection (a) of this

1 section may not be construed to limit the au-
2 thority to provide the Government of Burma
3 with assistance necessary to make available the
4 activities described in subsection (a) of such
5 section 1253.

6 (B) HOSPITALITY.—Notwithstanding sub-
7 section (a), the Secretary of State and the
8 United States Agency for International Devel-
9 opment may provide assistance authorized
10 under part I of the Foreign Assistance Act of
11 1961 (22 U.S.C. 2151 et seq.) to provide hospi-
12 tality during research, dialogues, meetings, or
13 other activities by the parties attending the
14 Union Peace Conference 21st Century
15 Panglong or related processes seeking inclusive,
16 sustainable reconciliation.

17 (2) WAIVER.—The Secretary of State, with re-
18 spect to security assistance, and the Secretary of
19 State in consultation with the Secretary of Defense,
20 with respect to security cooperation programs and
21 activities of the Department of Defense, may waive
22 on a case-by-case basis the limitation under sub-
23 section (a) if the Secretary submits to the appro-
24 priate congressional committees, not later than 30
25 days before such waiver enters into effect—

1 (A) a list of the activities and participants
2 to which such waiver would apply;

3 (B) a certification, including a justifica-
4 tion, that the waiver is in the national security
5 interest of the United States; and

6 (C) a certification that none of the partici-
7 pants included in the list described in subpara-
8 graph (A) have committed any of the acts de-
9 scribed in subparagraph (A) or (B) of section
10 1282(b)(1) or committed any other gross viola-
11 tion of human rights, as such term is defined
12 for purposes of section 362 of title 10, United
13 States Code.

14 (c) CERTIFICATION OF SIGNIFICANT PROGRESS.—
15 The date described in this subsection is the earlier of the
16 date that is 8 years after the date of the enactment of
17 this subtitle or the date on which the Secretary of State
18 certifies to the appropriate congressional committees the
19 following:

20 (1) The military and security forces of
21 Burma—

22 (A) have demonstrated significant progress
23 in abiding by international human rights stand-
24 ards and are undertaking meaningful security
25 sector reform, including reforms that enhance

1 transparency and accountability, to prevent fu-
2 ture abuses;

3 (B) adhere to international humanitarian
4 law;

5 (C) pledge to stop future human rights
6 abuses;

7 (D) support efforts to carry out com-
8 prehensive independent investigations of alleged
9 abuses;

10 (E) are taking steps to hold accountable
11 any members of such forces determined to be
12 responsible for human rights abuses; and

13 (F) cease their attacks against ethnic mi-
14 nority groups and participate in the conclusion
15 of a nationwide cease-fire agreement, political
16 accommodation, and constitutional change, in-
17 cluding the provision of citizenship to the
18 Rohingya.

19 (2) The Government of Burma, including the
20 military and security forces—

21 (A) allows full humanitarian access to
22 communities in areas affected by conflict, in-
23 cluding Rohingya communities in Rakhine
24 State;

1 (B) cooperates with the United Nations
2 High Commissioner for Refugees and organiza-
3 tions affiliated with the United Nations to en-
4 sure the protection of displaced persons and the
5 safe, voluntary, sustainable, and dignified re-
6 turn of refugees and internally displaced per-
7 sons;

8 (C) defines a transparent plan that in-
9 cludes—

10 (i) a timeline for professionalizing the
11 military and security forces; and

12 (ii) a process by which the military
13 withdraws from ownership or control of
14 private-sector business enterprises and
15 ceases involvement in the illegal trade in
16 natural resources and narcotics; and

17 (D) establishes civilian control over the fi-
18 nances and assets of its military and security
19 forces, including that military expenditures are
20 subject to civilian oversight.

21 (d) REPORT.—

22 (1) IN GENERAL.—Not later than 180 days
23 after the date of the enactment of this subtitle, and
24 annually thereafter, the Secretary of Defense and
25 the Secretary of State shall submit to the appro-

1 appropriate congressional committees a report on the
2 strategy and plans for military-to-military engage-
3 ment between the United States Armed Forces and
4 the military and security forces of Burma.

5 (2) ELEMENTS REQUIRED.—The report re-
6 quired under paragraph (1) shall include the fol-
7 lowing:

8 (A) A description and assessment of the
9 Government of Burma's strategy for security
10 sector reform, including any plans to withdraw
11 the military from owning or controlling private-
12 sector business entities and end involvement in
13 the illegal trade in jade and other natural re-
14 sources, reforms to end corruption and illicit
15 drug trafficking, and constitutional reforms to
16 ensure civilian control.

17 (B) A list of ongoing military activities
18 conducted by the United States Government
19 with the Government of Burma, and a descrip-
20 tion of the United States strategy for future
21 military-to-military engagements between the
22 United States and Burma's military and secu-
23 rity forces.

24 (C) An assessment of the progress of the
25 military and security forces of Burma towards

1 developing a framework to implement human
2 right reforms, including—

3 (i) cooperation with civilian authori-
4 ties and independent international inves-
5 tigation to investigate and prosecute cases
6 of human rights abuses;

7 (ii) steps taken to demonstrate respect
8 for and implementation of the laws of war;
9 and

10 (iii) a description of the elements of
11 the military-to-military engagement be-
12 tween the United States and Burma that
13 promote such implementation.

14 (D) An assessment of progress on the
15 peaceful settlement of armed conflicts between
16 the Government of Burma and ethnic minority
17 groups, including actions taken by the military
18 of Burma to adhere to cease-fire agreements,
19 allow for safe, voluntary, sustainable, and dig-
20 nified returns of displaced persons to their
21 homes, and withdraw forces from conflict zones.

22 (E) An assessment of the manner and ex-
23 tent to which the Burmese military recruits and
24 uses children as soldiers.

1 (F) An assessment of the Burmese's mili-
2 tary's use of violence against women, sexual vio-
3 lence, or other gender-based violence as a tool
4 of terror, war, or ethnic cleansing.

5 (e) FORM.—

6 (1) IN GENERAL.—The certification described
7 in subsection (c) and the report required by sub-
8 section (d) shall be submitted in unclassified form
9 but may include a classified annex.

10 (2) CERTIFICATION.—The certification de-
11 scribed in subsection (c) shall be accompanied by a
12 written justification in unclassified form, that may
13 contain a classified annex, describing the Burmese
14 military's efforts to implement reforms, end impu-
15 nity for human rights abuses, and increase trans-
16 parency and accountability.

17 **SEC. 1282. IMPOSITION OF EXISTING AND ADDITIONAL**
18 **SANCTIONS FOR THE VIOLATION OF HUMAN**
19 **RIGHTS AND THE COMMISSION OF HUMAN**
20 **RIGHTS ABUSES IN BURMA.**

21 (a) SANCTIONS PURSUANT TO EXISTING AUTHORI-
22 TIES.—The President shall impose sanctions—

23 (1) against officials in Burma, including Com-
24 mander in Chief of the Armed Forces of Myanmar
25 Min Aung Hlaing, under the Global Magnitsky

1 Human Rights Accountability Act (22 U.S.C. 2656
2 note); and

3 (2) against military-owned enterprises, includ-
4 ing the Myanmar Economic Corporation and Union
5 of Myanmar Economic Holding, under the Burmese
6 Freedom and Democracy Act (50 U.S.C. 1701 note),
7 the Tom Lantos Block Burmese JADE (Junta's
8 Anti-Democratic Efforts) Act of 2008 (50 U.S.C.
9 1701 note), and other relevant statutory authorities.

10 (b) ADDITIONAL SANCTIONS.—For the 8-year period
11 beginning on the date that is 270 days after the date of
12 the enactment of this subtitle, the President shall impose
13 the sanctions described in subsection (c) with respect to
14 each foreign person that the President determines, based
15 on credible evidence—

16 (1) is a current or former senior official of the
17 military or security forces of Burma who—

18 (A) knowingly perpetrated, ordered, or oth-
19 erwise directed serious human rights abuses in
20 Burma; or

21 (B) has taken significant steps to impede
22 investigations or prosecutions of alleged serious
23 human rights abuses, including against the
24 Rohingya community in Rakhine State;

1 (2) is an entity owned or controlled by any per-
2 son described in paragraph (1);

3 (3) is an entity, such as the Myanmar Eco-
4 nomic Cooperation or the Myanmar Economic Hold-
5 ing Corporation, that is owned or controlled, directly
6 or indirectly, by the military or security forces of
7 Burma, including through collective or cooperative
8 structures, from which one or more persons de-
9 scribed in paragraph (1) derive significant revenue
10 or financial benefit; or

11 (4) has knowingly—

12 (A) provided significant financial, material,
13 or technological support—

14 (i) to a foreign person described in
15 paragraph (1) in furtherance of any of the
16 acts described in subparagraph (A) or (B)
17 of such paragraph; or

18 (ii) to any entity owned or controlled
19 by such person or an immediate family
20 member of such person; or

21 (B) received significant financial, material,
22 or technological support from a foreign person
23 described in paragraph (1) or an entity owned
24 or controlled by such person or an immediate
25 family member of such person.

1 (c) SANCTIONS DESCRIBED; EXCEPTIONS.—

2 (1) SANCTIONS.—The sanctions described in
3 this subsection are the following:

4 (A) ASSET BLOCKING.—Notwithstanding
5 the requirements of section 202 of the Inter-
6 national Emergency Economic Powers Act (50
7 U.S.C. 1701), the exercise of all powers granted
8 to the President by such Act to the extent nec-
9 essary to block and prohibit all transactions in
10 all property and interests in property of a for-
11 eign person the President determines meets one
12 or more of the criteria described in subsection
13 (b) if such property and interests in property
14 are in the United States, come within the
15 United States, or are or come within the pos-
16 session or control of a United States person.

17 (B) INELIGIBILITY FOR ADMISSION.—In
18 the case of a foreign person who is an indi-
19 vidual, such person shall be—

20 (i) inadmissible to the United States;
21 (ii) ineligible to receive a visa or other
22 documentation to enter the United States;
23 and

24 (iii) otherwise ineligible to be admitted
25 or paroled into the United States or to re-

1 ceive any other benefit under the Immigra-
2 tion and Nationality Act (8 U.S.C. 1101 et
3 seq.).

4 (C) CURRENT VISAS REVOKED.—

5 (i) The issuing consular officer or the
6 Secretary of State, (or a designee of the
7 Secretary of State) shall, in accordance
8 with section 221(i) of the Immigration and
9 Nationality Act (8 U.S.C. 1201(i)), revoke
10 any visa or other entry documentation
11 issued to a foreign person who is an indi-
12 vidual regardless of when the visa or other
13 entry documentation is issued.

14 (ii) A revocation under clause (i) shall
15 take effect immediately and automatically
16 cancel any other valid visa or entry docu-
17 mentation that is in the person's posses-
18 sion.

19 (D) APPLICABILITY TO FOREIGN ENTITIES
20 AND FOREIGN GOVERNMENTS.—Subparagraphs
21 (B) and (C) of this section shall also apply with
22 respect to aliens who are officials of, agents or
23 instrumentalities of, working or acting on be-
24 half of, or otherwise associated with, a foreign
25 entity or foreign government that is a foreign

1 person subject to the imposition of sanctions
2 under subsection (b), if such aliens are deter-
3 mined by the Secretary of State to have know-
4 ingly authorized, conspired to commit, been re-
5 sponsible for, engaged in, or otherwise assisted
6 or facilitated the actions described in such sub-
7 section.

8 (2) EXCEPTION TO COMPLY WITH UNITED NA-
9 TIONS HEADQUARTERS AGREEMENT.—Sanctions
10 under this section shall not apply with respect to an
11 alien if admitting or paroling the alien into the
12 United States is necessary to permit the United
13 States to comply with the Agreement regarding the
14 Headquarters of the United Nations, signed at Lake
15 Success June 26, 1947, and entered into force No-
16 vember 21, 1947, between the United Nations and
17 the United States, or other applicable international
18 obligations.

19 (d) PENALTIES.—Any person that violates, attempts
20 to violate, conspires to violate, or causes a violation of this
21 section or any regulation, license, or order issued to carry
22 out subsection (c) shall be subject to the penalties set forth
23 in subsections (b) and (c) of section 206 of the Inter-
24 national Emergency Economic Powers Act (50 U.S.C.

1 1705) to the same extent as a person that commits an
2 unlawful act described in subsection (a) of that section.

3 (e) IMPLEMENTATION.—The President may exercise
4 all authorities provided under sections 203 and 205 of the
5 International Emergency Economic Powers Act (50
6 U.S.C. 1702 and 1704) to carry out this section and shall
7 issue such regulations, licenses, and orders as are nec-
8 essary to carry out this section.

9 (f) WAIVER.—The President may annually waive the
10 application of sanctions imposed on a foreign person pur-
11 suant to subsection (b) if the President—

12 (1) determines that a waiver with respect to
13 such foreign person is in the national interest of the
14 United States; and

15 (2) not later than the date on which such waiv-
16 er will take effect, submits to the following commit-
17 tees notice of and justification for such waiver:

18 (A) The Committee on Foreign Affairs, the
19 Committee on Appropriations, and the Com-
20 mittee on Financial Services of the House of
21 Representatives.

22 (B) The Committee on Foreign Relations,
23 the Committee on Appropriations, and the
24 Committee on Banking, Housing, and Urban
25 Affairs of the Senate.

1 (g) EXCEPTION RELATING TO THE IMPORTATION OF
2 GOODS.—

3 (1) IN GENERAL.—The authorities and require-
4 ments to impose sanctions authorized under this
5 subtitle shall not include the authority or require-
6 ment to impose sanctions on the importation of
7 goods.

8 (2) GOOD DEFINED.—In this subsection, the
9 term “good” means any article, natural or man-
10 made substance, material, supply or manufactured
11 product, including inspection and test equipment,
12 and excluding technical data.

13 (h) DEFINITIONS.—In this section—

14 (1) ADMITTED; ALIEN.—The terms “admitted”
15 and “alien” have the meanings given those terms in
16 section 101 of the Immigration and Nationality Act
17 (8 U.S.C. 1001).

18 (2) FOREIGN PERSON.—The term “foreign per-
19 son” means a person that is not a United States
20 person.

21 (3) KNOWINGLY.—The term “knowingly”
22 means, with respect to conduct, a circumstance, or
23 a result, means that a person has actual knowledge,
24 or should have known, of the conduct, the cir-
25 cumstance, or the result.

1 (4) UNITED STATES PERSON.—The term
2 “United States person” means—

3 (A) a United States citizen, an alien law-
4 fully admitted for permanent residence to the
5 United States, or any other individual subject
6 to the jurisdiction of the United States; or

7 (B) an entity organized under the laws of
8 the United States or of any jurisdiction within
9 the United States, including a foreign branch of
10 such entity.

11 **SEC. 1283. GUIDANCE RELATING TO THE MINING SECTOR**
12 **OF BURMA.**

13 (a) FINDINGS.—Congress finds the following:

14 (1) In 2015, the nongovernmental organization
15 Global Witness estimated that the value of total pro-
16 duction of jade in Burma in 2014 was
17 \$31,000,000,000, almost 48 percent of the official
18 gross domestic product of Burma. As much as 80
19 percent of that jade sold is smuggled out of Burma.

20 (2) Burma’s military and associated entities, in-
21 cluding companies owned or controlled by Myanmar
22 Economic Corporation and Myanmar Economic
23 Holding Limited, their affiliated companies, and
24 companies owned or controlled by current and
25 former senior military officers or their family mem-

1 bers, are linked to the mining sector, including the
2 gemstone industry, and benefit financially from
3 widespread illegal smuggling of jade and rubies from
4 Burma.

5 (3) Illegal trafficking in precious and
6 semiprecious stones from Burma, including the trade
7 in high-value jade and rubies, deprives the people of
8 Burma and the civilian government of critical revenue and instead benefits military-linked entities,
9 non-state armed groups, and transnational organized
10 criminal networks.

12 (4) In 2016, the Government of Burma began
13 to take steps to reform aspects of the mining sector,
14 but the Gemstone Law adopted in January 2019
15 does not adequately address corruption and tax
16 avoidance, conflicts of interest, or the factors fueling
17 conflict in Kachin State and other gemstone mining
18 areas.

19 (5) The lifting in October 2016 of United
20 States sanctions on the importation of jade and
21 jadeite and rubies from Burma allowed such
22 gemstones to legally enter the United States market,
23 but some retailers have refrained from sourcing
24 gemstones of Burmese origin due to governance and
25 reputational concerns.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that—

3 (1) notwithstanding Burma’s “Trafficking in
4 Persons” ranking, the President should continue to
5 provide assistance to Burma, pursuant to the waiver
6 authority under section 110(d)(4) of the Trafficking
7 Victims Protection Act of 2000 (22 U.S.C.
8 7107(d)(4)), in order to re-engage with the Govern-
9 ment of Burma with respect to the mining sector
10 and should make available technical, capacity-build-
11 ing and other assistance through the Department of
12 State or the United States Agency for International
13 Development to support the Government of Burma
14 in efforts to reform the gemstone industry; and

15 (2) companies that seek to import to the United
16 States gemstones or minerals that may be of Bur-
17 mese origin or articles of jewelry containing such
18 gemstones should—

19 (A) obtain such materials exclusively from
20 entities that satisfy the transparency criteria
21 described in subsection (d)(2) or from third
22 parties that can demonstrate that they sourced
23 the materials from entities that meet such cri-
24 teria; and

1 (B) undertake robust due diligence proce-
2 dures in line with the “Due Diligence Guidance
3 for Responsible Business Conduct” and “Due
4 Diligence Guidance for Responsible Supply
5 Chains of Minerals from Conflict-Affected and
6 High-Risk Areas” promulgated by the Organi-
7 zation for Economic Cooperation and Develop-
8 ment.

9 (c) LIST OF PARTICIPATING WHITE-LIST ENTI-
10 TIES.—Not later than 120 days after the date of the en-
11 actment of this subtitle, and annually thereafter until the
12 date described in subsection (e), the Secretary of State
13 shall submit to the appropriate congressional committees,
14 and publish on a publicly available website, a list of each
15 entity described in subsection (d)(1) that—

- 16 (1) participates in Burma’s mining sector;
17 (2) publicly discloses beneficial ownership, as
18 such term is defined for purposes of the Myanmar
19 Extractive Industry Transparency Initiative
20 (“Myanmar EITI”);
21 (3) is not owned or controlled, either directly or
22 indirectly, by the Burmese military or security
23 forces, any current or former senior Burmese mili-
24 tary officer, or any person sanctioned by the United

1 States pursuant to any relevant sanctions authority;
2 and

3 (4) is making significant progress toward meet-
4 ing the criteria described in subsection (d)(2).

5 (d) ENTITIES AND CRITERIA DESCRIBED.—

6 (1) ENTITIES DESCRIBED.—The entities de-
7 scribed in this subsection are the following:

8 (A) Entities that produce or process pre-
9 cious and semiprecious gemstones.

10 (B) Entities that sell or export precious
11 and semiprecious gemstones from Burma or ar-
12 ticles of jewelry containing such gemstones.

13 (2) CRITERIA DESCRIBED.—The criteria de-
14 scribed in this subsection are the following:

15 (A) The entity publicly discloses any politi-
16 cally exposed persons, officers, directors or ben-
17 efiticial owners, as defined under the Myanmar
18 EITL.

19 (B) The entity publicly discloses valid au-
20 thorization, license, or permit to produce, proc-
21 ess, sell, or export minerals or gemstones, as
22 applicable.

23 (C) The entity publicly discloses payments
24 to the Government of Burma, including tax and
25 non-tax, license, or royalty payments, and other

1 payments or contract terms as may be required
2 under Myanmar EITI standards.

3 (D) The entity undertakes due diligence, in
4 line with the OECD Due Diligence Guidance
5 for Responsible Supply Chains of Minerals from
6 Conflict-Affected and High-Risk Areas, includ-
7 ing public reporting.

8 (e) PERIODIC UPDATING.—The Secretary shall peri-
9 odically update the publicly available version of the list de-
10 scribed in subsection (c) as appropriate.

11 (f) GUIDANCE AND WHITE-LIST ENTITIES.—The
12 Secretary shall issue guidance for entities in the United
13 States private sector with respect to the best practices for
14 supply-chain due diligence that are applicable to importa-
15 tion of gemstones or minerals that may be of Burmese
16 origin or articles of jewelry containing such gemstones, in-
17 cluding with respect to transactions with entities approved
18 for inclusion in the list published pursuant subsection (c),
19 in order to mitigate potential risks and legal liabilities as-
20 sociated with the importation of such items.

21 (g) TERMINATION.—The date described in this sec-
22 tion is the date on which the President certifies to the
23 appropriate congressional committees that the Govern-
24 ment of Burma has taken substantial measures to reform
25 the mining sector in Burma, including the following:

1 (1) Require the mandatory disclosure of pay-
2 ments, permit and license allocations, project reve-
3 nues, contracts, and beneficial ownership, including
4 the identification any politically exposed persons who
5 are beneficial owners, consistent with the approach
6 agreed under the Myanmar EITI and with due re-
7 gard for civil society participation.

8 (2) Separate the commercial, regulatory, and
9 revenue collection responsibilities within the
10 Myanmar Gems Enterprise and other key state-
11 owned enterprises to remove existing conflicts of in-
12 terest.

13 (3) Monitor and undertake enforcement actions,
14 as warranted, to ensure that entities—

15 (A) adhere to environmental and social im-
16 pact assessment and management standards in
17 accordance with international responsible min-
18 ing practices, the country's environmental con-
19 servation law, and other applicable laws and
20 regulations; and

21 (B) uphold occupational health and safety
22 standards and codes of conduct that are aligned
23 with the core labor standards of the Inter-
24 national Labour Organisation and with domes-
25 tic law.

1 (4) Address the transparent and fair distribu-
2 tion of benefits from natural resources, including
3 through local benefit-sharing.

4 (5) Reform the process for valuation of
5 gemstones at the mine-site, including developing an
6 independent valuation system to prevent undervalu-
7 ation and tax evasion.

8 (6) Require companies bidding for jade and
9 ruby mining, finishing, or export permits to be inde-
10 pendently audited upon the request of the Govern-
11 ment of Burma and making the results of all such
12 audits public.

13 (7) Establish credible and transparent proce-
14 dures for permit allocations that are independent
15 from external influence, including scrutiny of appli-
16 cants that prevents unscrupulous entities from gain-
17 ing access to concessions or the right to trade in
18 minerals or gemstones.

19 (8) Establish effective oversight of state-owned
20 enterprises operating in such sector, including
21 through parliamentary oversight or requirements for
22 independent financial auditing.

1 **SEC. 1284. REPORT AND DETERMINATION ON ACCOUNT-**
2 **ABILITY FOR WAR CRIMES, CRIMES AGAINST**
3 **HUMANITY, AND GENOCIDE IN BURMA.**

4 (a) IN GENERAL.—Not later than 90 days after the
5 date of the enactment of this subtitle, the Secretary of
6 State shall submit to the appropriate congressional com-
7 mittees a report that—

8 (1) summarizes credible reports of serious
9 human rights violations, including war crimes, com-
10 mitted against the Rohingya or other ethnic minori-
11 ties in Burma between 2012 and the date of the
12 submission of the report;

13 (2) describes any potential transitional justice
14 mechanisms in Burma;

15 (3) provides an analysis of whether the serious
16 human rights violations summarized pursuant to
17 paragraph (1) amount to war crimes, crimes against
18 humanity, or genocide; and

19 (4) includes a determination of the Secretary
20 whether—

21 (A) the events that took place in the state
22 of Rakhine in Burma, starting on August 25,
23 2017, constitute war crimes, crimes against hu-
24 manity, or genocide; or

25 (B) the situation faced by the Rohingya in
26 Rakhine State, between 2012 and the date of

1 the submission of the report, amounts to or has
2 amounted to the crime of apartheid.

3 (b) ELEMENTS.—The report required by subsection
4 (a) shall also include each of the following:

5 (1) A description of—

6 (A) each incident for which there is cred-
7 ible evidence that the incident may constitute
8 war crimes, crimes against humanity, or geno-
9 cide committed by the Burmese military or se-
10 curity forces against the Rohingya and other
11 ethnic minorities, including the identities of any
12 other actors involved in such incident;

13 (B) the role of the civilian government in
14 the commission of any such incidents;

15 (C) each incident for which there is cred-
16 ible evidence that the incident may constitute
17 war crime, crimes against humanity, or geno-
18 cide committed by violent extremist groups in
19 Burma;

20 (D) each attack on health workers, health
21 facilities, health transport, or patients and, to
22 the extent possible, the identities of any individ-
23 uals who engaged in or organized such incidents
24 in Burma; and

1 (E) to the extent possible, a description of
2 the conventional and unconventional weapons
3 used for any such crimes and the sources of
4 such weapons.

5 (2) A description and assessment, in consulta-
6 tion with the Administrator of the United States
7 Agency for International Development, the Attorney
8 General, and other heads of any other appropriate
9 Federal departments or agencies, of the effectiveness
10 of any programs that the United States has already
11 undertaken to ensure accountability for war crimes,
12 crimes against humanity, and genocide perpetrated
13 against the Rohingya by the military and security
14 forces of Burma, the Rakhine State government,
15 pro-government militias, and all other armed groups
16 operating fighting in Rakhine, including programs
17 to—

18 (A) train civilian investigators within and
19 outside of Burma and Bangladesh on how to
20 document, investigate, develop findings of, iden-
21 tify, and locate alleged perpetrators of war
22 crimes, crimes against humanity, or genocide in
23 Burma;

24 (B) promote and prepare for a transitional
25 justice process or processes for the perpetrators

1 of war crimes, crimes against humanity, and
2 genocide occurring in the State of Rakhine in
3 2017; and

4 (C) document, collect, preserve, and pro-
5 tect evidence of war crimes, crimes against hu-
6 manity, and genocide in Burma, including by
7 providing support for Burmese, Bangladeshi,
8 foreign, and international nongovernmental or-
9 ganizations, the United Nations Human Rights
10 Council's investigative team, and other entities
11 engaged in such investigative activities.

12 (3) A detailed study of the feasibility and desir-
13 ability of potential transitional justice mechanisms
14 for Burma, such as an international tribunal, a hy-
15 brid tribunal, or other international options, that in-
16 cludes—

17 (A) a discussion of the use of universal ju-
18 risdiction or of legal cases brought against the
19 country of Burma by other sovereign countries
20 at the International Court of Justice to address
21 war crimes, crimes against humanity, and geno-
22 cide perpetrated in Burma;

23 (B) recommendations on which transitional
24 justice mechanisms the United States should
25 support, why such mechanisms should be sup-

1 ported, and what type of support should be of-
2 ferred; and

3 (C) close consultation regarding transi-
4 tional justice mechanisms with Rohingya rep-
5 resentatives and those of other ethnic minorities
6 who have suffered grave human rights abuses.

7 (c) PROTECTION OF WITNESSES AND EVIDENCE.—
8 The Secretary of State shall ensure that the identification
9 of witnesses and physical evidence for purposes of the re-
10 port required by subsection (a) are not publicly disclosed
11 in a manner that might place such persons at risk of harm
12 or encourage the destruction of such evidence by the mili-
13 tary or Government of Burma.

14 (d) CRIME OF APARTHEID.—In this section, the term
15 “crime of apartheid” means inhumane acts that—

16 (1) are of a character similar to the acts re-
17 ferred to in subparagraphs (A) through (H) of sec-
18 tion 1285(2);

19 (2) are committed in the context of an institu-
20 tionalized regime of systematic oppression and domi-
21 nation by one racial group over any other racial
22 group; and

23 (3) are committed with the intention of main-
24 taining such regime.

1 (e) AUTHORIZATION TO PROVIDE TECHNICAL AS-
2 SISTANCE.—The Secretary of State is authorized to pro-
3 vide assistance to support appropriate civilian or inter-
4 national entities that are undertaking the efforts described
5 in subsection (f) with respect to war crimes, crimes
6 against humanity, and genocide perpetrated by the mili-
7 tary and security forces of Burma, the Rakhine State gov-
8 ernment, pro-government militias, or any other armed
9 groups fighting in Rakhine State.

10 (f) EFFORTS AGAINST HUMAN RIGHTS ABUSES.—
11 The efforts described in this subsection are the following:

12 (1) Identifying suspected perpetrators of war
13 crimes, crimes against humanity, and genocide.

14 (2) Collecting, documenting, and protecting evi-
15 dence of such crimes and preserve the chain of cus-
16 tody for such evidence.

17 (3) Conducting criminal investigations.

18 (4) Supporting investigations conducted by
19 other countries, as appropriate.

20 (g) AUTHORIZATION FOR TRANSITIONAL JUSTICE
21 MECHANISMS.—The Secretary of State, taking into ac-
22 count any relevant findings in the report required by sub-
23 section (a), is authorized to provide support for the cre-
24 ation and operation of transitional justice mechanisms, in-
25 cluding a potential hybrid tribunal, to prosecute individ-

1 uals suspected of committing war crimes, crimes against
2 humanity, or genocide in Burma.

3 **SEC. 1285. DEFINITIONS.**

4 In this subtitle:

5 (1) APPROPRIATE CONGRESSIONAL COMMIT-
6 TEES.—The term “appropriate congressional com-
7 mittees” means—

8 (A) the Committee on Foreign Affairs and
9 the Committee on Armed Services of the House
10 of Representatives; and

11 (B) the Committee on Foreign Relations
12 and the Committee on Armed Services of the
13 Senate.

14 (2) CRIMES AGAINST HUMANITY.—The term
15 “crimes against humanity” includes, when com-
16 mitted as part of a widespread or systematic attack
17 directed against any civilian population, with knowl-
18 edge of the attack—

19 (A) murder;

20 (B) deportation or forcible transfer of pop-
21 ulation;

22 (C) torture;

23 (D) extermination;

24 (E) enslavement;

1 (F) rape, sexual slavery, or any other form
2 of sexual violence of comparable severity;

3 (G) persecution against any identifiable
4 group or collectivity on political, racial, na-
5 tional, ethnic, cultural, religious, gender, or
6 other grounds that are universally recognized as
7 impermissible under international law; and

8 (H) enforced disappearance of persons.

9 (3) GENOCIDE.—The term “genocide” means
10 any offense described in section 1091(a) of title 18,
11 United States Code.

12 (4) TRANSITIONAL JUSTICE.—The term “tran-
13 sitional justice” means the range of judicial, non-
14 judicial, formal, informal, retributive, and restorative
15 measures employed by countries transitioning out of
16 armed conflict or repressive regimes to redress leg-
17 acies of atrocities and to promote long-term, sustain-
18 able peace.

19 (5) WAR CRIME.—The term “war crime” has
20 the meaning given the term in section 2441(c) of
21 title 18, United States Code.

