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At the appropriate place in title XII, insert the following new subtitle:

1 Subtitle ___—Matters Relating to Burma

2 SEC. 12. LIMITATION ON SECURITY ASSISTANCE AND

3 SECURITY COOPERATION.

4  (a) LIMITATION ON MILITARY AND SECURITY SEC-

5 TOR COOPERATION.—Except as provided in subsection (b)

6 or subsection (e), for the 8-year period beginning on the

7 date of the enactment of this Act, the United States may

8 not provide security assistance or engage in security co-

9 operation with the military or security forces of Burma

10 until the date on which the Secretary of State certifies

11 to the appropriate congressional committees with respect

12 to security assistance, as such term is defined in section

13 502B(d) of the Foreign Assistance Act of 1961 (22 U.S.C.

14 2304(d)), or, in consultation with the Secretary of De-

15 fense, with respect to security cooperation programs and

16 activities of the Department of Defense, as such term is

17 defined in section 301 of title 10, United States Code, as

18 applicable, that the military and security forces of Burma
have demonstrated significant progress in abiding by international human rights standards and are undertaking meaningful and significant security sector reform, including reforms that enhance transparency and accountability, to prevent future abuses, such as—

(1) the Burmese military and security forces adhere to international humanitarian law, demonstrate significant progress in abiding by international standards for human rights, and pledge to stop future human rights abuses;

(2) the Burmese military and security forces support efforts to carry out meaningful and comprehensive investigations of alleged abuses and are taking steps to hold accountable those members of such military and security forces responsible for human rights abuses;

(3) the Government of Burma, including the military and security forces, allow immediate and unfettered humanitarian access to communities in areas affected by conflict, including Rohingya communities in the State of Rakhine;

(4) the Government of Burma, including the military and security forces, cooperates with the United Nations High Commissioner for Refugees and organizations affiliated with the United Nations
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to ensure the protection of displaced persons and the
safe, voluntary, and dignified return of refugees and
internally displaced persons;

(5) the Burmese military and security forces
cease their attacks against ethnic minority groups
and constructively participate in the conclusion of a
credible, nationwide ceasefire agreement, political ac-
commodation, and constitutional change, including
the restoration of the citizenship of the Rohingya;

(6) the Government of Burma, including the
military and security forces, defines a transparent
plan with a timeline for professionalizing the mili-
tary and security forces and includes a process by
which the military withdraws from private-sector
business enterprises and ceases involvement in the il-
legal trade in natural resources and narcotics; or

(7) the Government of Burma establishes effec-
tive civilian control over the finances of its military
and security forces, including by ensuring that the
military does not have access to off-budget income
and that military expenditures are subject to ade-
quate civilian oversight.

(b) EXCEPTIONS.—

(1) CERTAIN EXISTING AUTHORITIES.—The
Secretary of Defense shall retain the authority
granted by section 1253 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (22 U.S.C. 2151 note) and is authorized to provide the Government of Burma with assistance necessary to make available the activities described in subsection (a) of such section.

(2) HOSPITALITY.—The Secretary of State and the United States Agency for International Development may provide assistance authorized under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) to provide hospitality during research, dialogues, meetings, or other activities by the parties attending the Union Peace Conference 21st Century Panglong or related processes seeking inclusive, sustainable reconciliation.

(c) MILITARY REFORM.—The certification required under subsection (a) shall include a written justification in unclassified form that may contain a classified annex describing the Burmese military’s efforts to implement reforms, end impunity for human rights abuses, and increase transparency and accountability.

(d) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and an-
nually thereafter, the Secretary of Defense and the Secretary of State shall submit to the appropriate congressional committees a report, in unclassified form with a classified annex, on the strategy and plans for military-to-military engagement between the United States Armed Forces and the military and security forces of Burma.

(2) Elements.—The report required under paragraph (1) shall include the following elements:

(A) A description and assessment of the Government of Burma’s strategy for security sector reform, including plans to withdraw the military from owning or controlling private-sector business entities and end involvement in the illicit trade in jade and other natural resources, reforms to end corruption and illicit drug trafficking, and constitutional reforms to ensure civilian control.

(B) A list of ongoing military activities conducted by the United States Government with the Government of Burma, and a description of the United States strategy for future military-military engagements between the United States and Burma’s military and secu-
rity forces, including the military of Burma, the
Burma Police Force, and armed ethnic groups.

(C) An assessment of the progress of the
military and security forces of Burma towards
developing a framework to implement human
right reforms, including—

(i) cooperation with civilian authorities
to investigate and prosecute cases of
serious, credible, or gross human rights
abuses;

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

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

(D) An assessment of progress on the
peaceful settlement of armed conflicts between
the Government of Burma and ethnic minority
groups, including actions taken by the military
of Burma to adhere to cease-fire agreements,
allow for safe and voluntary returns of dis-
placed persons to their homes, and withdraw
forces from conflict zones.
(E) An assessment of the Burmese’s military recruitment and use of children as soldiers.

(F) An assessment of the Burmese’s military’s use of violence against women, sexual violence, or other gender-based violence as a tool of terror, war, or ethnic cleansing.

(e) Waiver.—

(1) IN GENERAL.—The Secretary of State, with respect to security assistance, and the Secretary of Defense in consultation with the Secretary of State, with respect to security cooperation programs and activities of the Department of Defense, may waive on a case-by-case basis the application of the limitation under subsection (a) if the Secretary submits to the appropriate congressional committees, not later than 30 days before such waiver enters into effect—

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

(B) a certification, including a justification, that the waiver is in the national interest of the United States; and

(C) a certification that none of the participants listed pursuant to subparagraph (A) have committed any of the acts described in section 12(2)(a)(1)(A) or 12(2)(a)(1)(B) or com-
mitted any other gross violation of human rights, as such term is defined for purposes of section 362 of title 10, United States Code.

SEC. 12. IMPOSITION OF SANCTIONS WITH RESPECT TO CERTAIN FOREIGN PERSONS.

(a) IN GENERAL.—For the 8-year period beginning on the date that is 270 days after the date of the enactment of this Act, the President shall impose the sanctions described in subsection (b) with respect to each foreign person that the President determines—

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

(A) perpetrated or is responsible for ordering or otherwise directing serious human rights abuses in Burma; or

(B) has taken significant steps to impede investigations or prosecutions of serious human rights abuses allegedly committed by one or more subordinates of such official, including against the Rohingya community in the state of Rakhine;

(2) is an entity owned or controlled by any person described in paragraph (1);
(3) has knowingly provided or received significant financial, material, or technological support to or from a foreign person, including the immediate family members of such person, described in paragraph (1) for any of the acts described in subparagraph (A) or (B) of such paragraph.

(b) SANCTIONS.—The sanctions described in this section are the following:

(1) ASSET BLOCKING.—Notwithstanding the requirements of section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1701), the exercise of all powers granted to the President by such Act to the extent necessary to block and prohibit all transactions in all property and interests in property of a person the President determines meets one or more of the criteria described in subsection (a) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(2) ALIENS INELIGIBLE FOR VISAS, ADMISSION, OR PAROLE.—

(A) VISAS, ADMISSION, OR PAROLE.—An alien who the Secretary of State or the Secretary of Homeland Security (or a designee of
one of such Secretaries) knows, or has reason
to believe, meets any of the criteria described in
subsection (a) is—

(i) inadmissible to the United States;

(ii) ineligible to receive a visa or other
documentation to enter the United States;
and

(iii) otherwise ineligible to be admitted
or paroled into the United States or to re-
ceive any other benefit under the Immigra-
tion and Nationality Act (8 U.S.C. 1101 et
seq.).

(B) CURRENT VISAS REVOKED.—

(i) IN GENERAL.—The issuing con-
sular officer, the Secretary of State, or the
Secretary of Homeland Security (or a des-
ignee of one of such Secretaries) shall re-
voke any visa or other entry documentation
issued to an alien who meets any of the
criteria described in subsection (a) regard-
less of when issued.

(ii) EFFECT OF REVOCATION.—A rev-
ocation under clause (i)—

(I) shall take effect immediately;
and
(II) shall automatically cancel any other valid visa or entry documentation that is in the alien’s possession.

(3) EXCEPTION TO COMPLY WITH UNITED NATIONS HEADQUARTERS AGREEMENT.—Sanctions under paragraph (2) shall not apply to an alien if admitting the alien into the United States is necessary to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and the United States, or other applicable international obligations.

(4) EXCEPTION WITH RESPECT TO THE IMPORTATION OF GOODS.—The authorities and requirements to impose sanctions under this section shall not include any authority or requirement to impose sanctions with respect to the importation of goods, as such term is defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. 4618) (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.))).
(c) PENALTIES.—Any person that violates, attempts to violate, conspires to violate, or causes a violation of this section or any regulation, license, or order issued to carry out subsection (b) shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of that section.

(d) IMPLEMENTATION.—The President may exercise the authorities provided under section 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out this section.

(e) WAIVER.—

(1) IN GENERAL.—The President may annually waive the application of sanctions required by subsection (a) with respect to a person if the President—

(A) determines that such waiver is in the national interest of the United States; and

(B) not later than the date on which such waiver will take effect, submits to the congressional committees listed in paragraph (2) a notice of and justification for such waiver.
(2) CONGRESSIONAL COMMITTEES LISTED.—

The congressional committees listed in this paragraph are the following:

(A) The Committee on Foreign Affairs, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives.

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

(f) DEFINITIONS.—In this section:

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

(2) FOREIGN PERSON.—The term “foreign person” means a person that is not a United States person.

(3) KNOWINGLY.—The term “knowingly” means, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.
(4) UNITED STATES PERSON.—The term “United States person” means—

(A) a United States citizen, an alien lawfully admitted for permanent residence to the United States, or any other individual subject to the jurisdiction of the United States; or

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

SEC. 12 3. RESPONSIBILITY AND TRANSPARENCY IN THE MINING SECTOR.

(a) LIST OF PARTICIPATING ENTITIES.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, and not less than annually thereafter until the date described in subsection (e), the Secretary of State shall submit to the appropriate congressional committees a list of the entities described in each of subparagraphs (A) and (B) of paragraph (2) that—

(A) participate in Burma’s mining sector;

(B) meet the criterion described in subsection (b)(1); and
(C) meet or have made significant progress towards meeting the criteria in subsections (b)(2) through (b)(5).

(2) ENTITIES DESCRIBED.—The entities described in this paragraph are the following:

(A) Entities that produce or process precious and semiprecious gemstones.

(B) Entities that sell or export precious and semiprecious gemstones from Burma or articles of jewelry containing such gemstones.

(b) CRITERIA DESCRIBED.—The criteria described in this subsection are the following with respect to an entity:

(1) The entity publicly discloses beneficial ownership, as such term is defined for purposes of the Myanmar Extractive Industry Transparency Initiative (Myanmar EITI), and the entity is not owned or controlled, either directly or indirectly, by the Burmese military or security forces, any current or former senior Burmese military officer, or any person sanctioned by the United States pursuant to any relevant sanctions authority.

(2) The entity publicly discloses any politically exposed persons, as defined by the Myanmar EITI, who are beneficial owners, as defined under the Myanmar EITI.
(3) The entity publicly discloses valid authorization, license, or permit to produce, process, sell, or export minerals or gemstones, as applicable.

(4) The entity publicly discloses payments to the Government of Burma, including tax and non-tax, license, or royalty payments, and other payments or contract terms as may be required under Myanmar Extractive Industry Transparency Initiative standards.

(5) The entity undertakes robust due diligence, in line with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, including public reporting.

(c) PUBLICATION OF LIST.—The Secretary of State shall publish the list under subsection (a) and shall periodically update such list as appropriate.

(d) GUIDANCE.—The Secretary of State shall issue guidance to relevant companies regarding supply-chain due diligence best practices applicable to importation of gemstones or minerals that may be of Burmese origin or articles of jewelry containing such gemstones to mitigate the potential risks associated with the importation of such items.
(c) **TERMINATION.**—The requirement under subsection (a) shall terminate on the date on which the President certifies to the appropriate congressional committees that the Government of Burma has taken substantial measures to reform the mining sector in Burma, including the following:

(1) Requiring the mandatory disclosure of payments, permit and license allocations, project revenues, relevant contract terms, and beneficial ownership, including identifying any politically exposed persons who are beneficial owners, consistent with the approach agreed under the Myanmar EITI and with due regard for civil society participation.

(2) Separating the commercial, regulatory, and revenue collection responsibilities within the Myanmar Gems Enterprise and other key state-owned enterprises to remove existing conflicts of interest.

(3) Monitoring and undertaking enforcement actions, as warranted, to ensure that entities fully adhere to environmental and social impact assessment and management standards in accordance with international responsible mining practices, the country’s environmental conservation law and other applicable laws and regulations, and that they uphold
occupational health and safety standards and codes of conduct that are aligned with the core labor standards of the International Labour Organisation and domestic law.

(4) Actively seeking a comprehensive peace agreement that addresses the transparent and fair distribution of benefits from natural resources, including local benefit-sharing, taking into consideration proposals on fiscal federalism for new governance arrangements in resource-rich regions.

(5) Implementing on a timely basis policy reforms aligned with the recommendations of the multi-stakeholder Jade and Gemstone Support Committee and reporting regularly on such reforms.

(6) Reforming the process for valuation of gemstones at the mine-site, including developing an independent valuation system to prevent undervaluation and tax evasion.

(7) Requiring companies bidding for jade and ruby permits to be independently audited upon the request of Myanmar Gems Enterprise or the Minister of Natural Resources and Environmental Conservation, and making the results of all such audits public.
(8) Establishing a credible and transparent permitting process that closely scrutinizes applicants, including based on past performance, and prevents unscrupulous entities from gaining authorized access to concessions or the right to trade in minerals or gemstones.

(9) Establishing effective oversight of state-owned enterprises operating in such sector, including through parliamentary oversight or requirements for independent financial auditing.

SEC. 12. DETERMINATION AND REPORT ON ACCOUNTABILITY FOR ETHNIC CLEANSING, CRIMES AGAINST HUMANITY, AND GENOCIDE IN BURMA.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report that—

(1) describes—

(A) allegations of ethnic cleansing, crimes against humanity, and genocide in Burma; and

(B) potential transitional justice mechanisms in Burma; and

(2) includes a determination whether the events that took place in the state of Rakhine in Burma,
starting on August 25, 2017, constitute ethnic

cleansing, crimes against humanity, or genocide.

(b) ELEMENTS.—The report required under sub-

section (a) shall include—

(1) a description of—

(A) incidents that may constitute ethnic
cleansing, crimes against humanity, or genocide
committed by the Burmese military against the
Rohingya minority and the identities of any
other actors involved in such incidents;

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

(C) incidents that may constitute ethnic
cleansing, crimes against humanity, or genocide
committed by violent extremist groups or anti-
government forces;

(D) incidents that may violate the principle
of medical neutrality and, to the extent possible,
the identities of any individuals who engaged in
or organized such incidents; and

(E) to the extent possible, a description of
the conventional and unconventional weapons
used for such crimes and the sources of such
weapons;
(2) a description and assessment by the Department of State, the United States Agency for International Development, the Department of Justice, and other appropriate Federal departments and agencies of programs that the United States has already undertaken or is planning to undertake to ensure accountability for ethnic cleansing, crimes against humanity, and genocide perpetrated against the Rohingya by the military and security forces of Burma, the state government of Rakhine, Buddhist militias, and all other armed groups fighting in Rakhine, including programs to—

(A) train civilian investigators within and outside of Burma and Bangladesh on how to document, investigate, develop findings of, and identify and locate alleged perpetrators of ethnic cleansing, crimes against humanity, or genocide in Burma;

(B) promote and prepare for a transitional justice process or processes for the perpetrators of ethnic cleansing, crimes against humanity, and genocide occurring in the State of Rakhine in 2017; and

(C) document, collect, preserve, and protect evidence of ethnic cleansing, crimes against
humanity, and genocide in Burma, including by
providing support for Burmese, Bangladeshi,
foreign, and international nongovernmental or-
ganizations, the United Nations Human Rights
Council’s investigative team, and other entities
engaged in such investigative activities; and

(3) a detailed study of the feasibility and desir-
ability of potential transitional justice mechanisms
for Burma, including a hybrid tribunal, to address
ethnic cleansing, crimes against humanity, and geno-
cide perpetrated in Burma, including recommenda-
tions on which transitional justice mechanisms the
United States should support, why such mechanisms
should be supported, and what type of support
should be offered.

(e) **Protection of Witnesses and Evidence.**—
The Secretary of State shall take due care to ensure that
the identification of witnesses and physical evidence are
not publicly disclosed in a manner that might place such
persons at risk of harm or encourage the destruction of
evidence by the Government of Burma.

(d) **Authorization to Provide Technical As-
sistance.**—

(1) **In General.**—The Secretary of State is
authorized to provide assistance to support appro-
appropriate entities that are undertaking the efforts described in paragraph (2) with respect to ethnic cleansing, crimes against humanity, and genocide perpetrated by the military and security forces of Burma, the state government of Rakhine, Buddhist militias, and all other armed groups fighting in Rakhine State.

(2) EFFORTS AGAINST HUMAN RIGHTS ABUSES.—The efforts described in this paragraph are the following:

(A) Identifying suspected perpetrators of ethnic cleansing, crimes against humanity, and genocide.

(B) Collecting, documentating, and protecting evidence of such crimes and preserve the chain of custody for such evidence.

(C) Conducting criminal investigations.

(D) Supporting investigations conducted by other countries, as appropriate.

(3) ADDITIONAL SUPPORT.—The Secretary of State, taking into account any relevant findings in the report required by subsection (a), is authorized to support the creation and operation of transitional justice mechanisms, including a potential hybrid tribunal, to prosecute individuals suspected of commit-
ting ethnic cleansing, crimes against humanity, or genocide in Burma.

SEC. 12—5. APPROPRIATE CONGRESSIONAL COMMITTEES.

In this subtitle, the term “appropriate congressional committees” means—

(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.