

1 have demonstrated significant progress in abiding by
2 international human rights standards and are undertaking
3 meaningful and significant security sector reform, includ-
4 ing reforms that enhance transparency and accountability,
5 to prevent future abuses, such as—

6 (1) the Burmese military and security forces
7 adhere to international humanitarian law, dem-
8 onstrate significant progress in abiding by inter-
9 national standards for human rights, and pledge to
10 stop future human rights abuses;

11 (2) the Burmese military and security forces
12 support efforts to carry out meaningful and com-
13 prehensive investigations of alleged abuses and are
14 taking steps to hold accountable those members of
15 such military and security forces responsible for
16 human rights abuses;

17 (3) the Government of Burma, including the
18 military and security forces, allow immediate and
19 unfettered humanitarian access to communities in
20 areas affected by conflict, including Rohingya com-
21 munities in the State of Rakhine;

22 (4) the Government of Burma, including the
23 military and security forces, cooperates with the
24 United Nations High Commissioner for Refugees
25 and organizations affiliated with the United Nations

1 to ensure the protection of displaced persons and the
2 safe, voluntary, and dignified return of refugees and
3 internally displaced persons;

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

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

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

23 (b) EXCEPTIONS.—

24 (1) CERTAIN EXISTING AUTHORITIES.—The
25 Secretary of Defense shall retain the authority

1 granted by section 1253 of the Carl Levin and How-
2 ard P. “Buck” McKeon National Defense Authoriza-
3 tion Act for Fiscal Year 2015 (22 U.S.C. 2151 note)
4 and is authorized to provide the Government of
5 Burma with assistance necessary to make available
6 the activities described in subsection (a) of such sec-
7 tion.

8 (2) HOSPITALITY.—The Secretary of State and
9 the United States Agency for International Develop-
10 ment may provide assistance authorized under part
11 I of the Foreign Assistance Act of 1961 (22 U.S.C.
12 2151 et seq.) to provide hospitality during research,
13 dialogues, meetings, or other activities by the parties
14 attending the Union Peace Conference 21st Century
15 Panglong or related processes seeking inclusive, sus-
16 tainable reconciliation.

17 (c) MILITARY REFORM.—The certification required
18 under subsection (a) shall include a written justification
19 in unclassified form that may contain a classified annex
20 describing the Burmese military’s efforts to implement re-
21 forms, end impunity for human rights abuses, and in-
22 crease transparency and accountability.

23 (d) REPORT.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the date of the enactment of this Act, and an-

1 nually thereafter, the Secretary of Defense and the
2 Secretary of State shall submit to the appropriate
3 congressional committees a report, in unclassified
4 form with a classified annex, on the strategy and
5 plans for military-to-military engagement between
6 the United States Armed Forces and the military
7 and security forces of Burma.

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

10 (A) A description and assessment of the
11 Government of Burma's strategy for security
12 sector reform, including plans to withdraw the
13 military from owning or controlling private-sec-
14 tor business entities and end involvement in the
15 illicit trade in jade and other natural resources,
16 reforms to end corruption and illicit drug traf-
17 ficking, and constitutional reforms to ensure ci-
18 vilian control.

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

1 rity forces, including the military of Burma, the
2 Burma Police Force, and armed ethnic groups.

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

7 (i) cooperation with civilian authori-
8 ties to investigate and prosecute cases of
9 serious, credible, or gross human rights
10 abuses;

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

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

18 (D) An assessment of progress on the
19 peaceful settlement of armed conflicts between
20 the Government of Burma and ethnic minority
21 groups, including actions taken by the military
22 of Burma to adhere to cease-fire agreements,
23 allow for safe and voluntary returns of dis-
24 placed persons to their homes, and withdraw
25 forces from conflict zones.

1 (E) An assessment of the Burmese’s mili-
2 tary recruitment and use of children as soldiers.

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

7 (e) WAIVER.—

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

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

19 (B) a certification, including a justifica-
20 tion, that the waiver is in the national interest
21 of the United States; and

22 (C) a certification that none of the partici-
23 pants listed pursuant to subparagraph (A) have
24 committed any of the acts described in section
25 12__2(a)(1)(A) or 12__2(a)(1)(B) or com-

1 mitted any other gross violation of human
2 rights, as such term is defined for purposes of
3 section 362 of title 10, United States Code.

4 **SEC. 12__2. IMPOSITION OF SANCTIONS WITH RESPECT**
5 **TO CERTAIN FOREIGN PERSONS.**

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

11 (1) is a current or former senior official of the
12 military or security forces of Burma who know-
13 ingly—

14 (A) perpetrated or is responsible for order-
15 ing or otherwise directing serious human rights
16 abuses in Burma; or

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

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

1 (3) has knowingly provided or received signifi-
2 cant financial, material, or technological support to
3 or from a foreign person, including the immediate
4 family members of such person, described in para-
5 graph (1) for any of the acts described in subpara-
6 graph (A) or (B) of such paragraph.

7 (b) SANCTIONS.—The sanctions described in this sec-
8 tion are the following:

9 (1) ASSET BLOCKING.—Notwithstanding the re-
10 quirements of section 202 of the International
11 Emergency Economic Powers Act (50 U.S.C. 1701),
12 the exercise of all powers granted to the President
13 by such Act to the extent necessary to block and
14 prohibit all transactions in all property and interests
15 in property of a person the President determines
16 meets one or more of the criteria described in sub-
17 section (a) if such property and interests in property
18 are in the United States, come within the United
19 States, or are or come within the possession or con-
20 trol of a United States person..

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

23 (A) VISAS, ADMISSION, OR PAROLE.—An
24 alien who the Secretary of State or the Sec-
25 retary of Homeland Security (or a designee of

1 one of such Secretaries) knows, or has reason
2 to believe, meets any of the criteria described in
3 subsection (a) is—

4 (i) inadmissible to the United States;

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

7 and

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

13 (B) CURRENT VISAS REVOKED.—

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

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

24 (I) shall take effect immediately;

25 and

1 (II) shall automatically cancel
2 any other valid visa or entry docu-
3 mentation that is in the alien's pos-
4 session.

5 (3) EXCEPTION TO COMPLY WITH UNITED NA-
6 TIONS HEADQUARTERS AGREEMENT.—Sanctions
7 under paragraph (2) shall not apply to an alien if
8 admitting the alien into the United States is nec-
9 essary to permit the United States to comply with
10 the Agreement regarding the Headquarters of the
11 United Nations, signed at Lake Success June 26,
12 1947, and entered into force November 21, 1947,
13 between the United Nations and the United States,
14 or other applicable international obligations.

15 (4) EXCEPTION WITH RESPECT TO THE IMPOR-
16 TATION OF GOODS.—The authorities and require-
17 ments to impose sanctions under this section shall
18 not include any authority or requirement to impose
19 sanctions with respect to the importation of goods,
20 as such term is defined in section 16 of the Export
21 Administration Act of 1979 (50 U.S.C. 4618) (as
22 continued in effect pursuant to the International
23 Emergency Economic Powers Act (50 U.S.C. 1701
24 et seq.)).

1 (c) PENALTIES.—Any person that violates, attempts
2 to violate, conspires to violate, or causes a violation of this
3 section or any regulation, license, or order issued to carry
4 out subsection (b) shall be subject to the penalties set
5 forth in subsections (b) and (c) of section 206 of the Inter-
6 national Emergency Economic Powers Act (50 U.S.C.
7 1705) to the same extent as a person that commits an
8 unlawful act described in subsection (a) of that section.

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

13 (e) WAIVER.—

14 (1) IN GENERAL.—The President may annually
15 waive the application of sanctions required by sub-
16 section (a) with respect to a person if the Presi-
17 dent—

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

20 (B) not later than the date on which such
21 waiver will take effect, submits to the congres-
22 sional committees listed in paragraph (2) a no-
23 tice of and justification for such waiver.

1 (2) CONGRESSIONAL COMMITTEES LISTED.—

2 The congressional committees listed in this para-
3 graph are the following:

4 (A) The Committee on Foreign Affairs, the
5 Committee on Appropriations, and the Com-
6 mittee on Financial Services of the House of
7 Representatives.

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

12 (f) DEFINITIONS.—In this section:

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

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

20 (3) KNOWINGLY.—The term “knowingly”
21 means, with respect to conduct, a circumstance, or
22 a result, means that a person has actual knowledge,
23 or should have known, of the conduct, the cir-
24 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. 12 3. RESPONSIBILITY AND TRANSPARENCY IN THE**
12 **MINING SECTOR.**

13 (a) LIST OF PARTICIPATING ENTITIES.—

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

21 (A) participate in Burma’s mining sector;

22 (B) meet the criterion described in sub-
23 section (b)(1); and

1 (C) meet or have made significant progress
2 towards meeting the criteria in subsections
3 (b)(2) through (b)(5).

4 (2) ENTITIES DESCRIBED.—The entities de-
5 scribed in this paragraph are the following:

6 (A) Entities that produce or process pre-
7 cious and semiprecious gemstones.

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

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

13 (1) The entity publicly discloses beneficial own-
14 ership, as such term is defined for purposes of the
15 Myanmar Extractive Industry Transparency Initia-
16 tive (Myanmar EITI), and the entity is not owned
17 or controlled, either directly or indirectly, by the
18 Burmese military or security forces, any current or
19 former senior Burmese military officer, or any per-
20 son sanctioned by the United States pursuant to any
21 relevant sanctions authority.

22 (2) The entity publicly discloses any politically
23 exposed persons, as defined by the Myanmar EITI,
24 who are beneficial owners, as defined under the
25 Myanmar EITI.

1 (3) The entity publicly discloses valid authoriza-
2 tion, license, or permit to produce, process, sell, or
3 export minerals or gemstones, as applicable.

4 (4) The entity publicly discloses payments to
5 the Government of Burma, including tax and non-
6 tax, license, or royalty payments, and other pay-
7 ments or contract terms as may be required under
8 Myanmar Extractive Industry Transparency Initia-
9 tive standards.

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

15 (c) PUBLICATION OF LIST.—The Secretary of State
16 shall publish the list under subsection (a) and shall peri-
17 odically update such list as appropriate.

18 (d) GUIDANCE.—The Secretary of State shall issue
19 guidance to relevant companies regarding supply-chain
20 due diligence best practices applicable to importation of
21 gemstones or minerals that may be of Burmese origin or
22 articles of jewelry containing such gemstones to mitigate
23 the potential risks associated with the importation of such
24 items.

1 (e) TERMINATION.—The requirement under sub-
2 section (a) shall terminate on the date on which the Presi-
3 dent certifies to the appropriate congressional committees
4 that the Government of Burma has taken substantial
5 measures to reform the mining sector in Burma, including
6 the following:

7 (1) Requiring the mandatory disclosure of pay-
8 ments, permit and license allocations, project reve-
9 nues, relevant contract terms, and beneficial owner-
10 ship, including identifying any politically exposed
11 persons who are beneficial owners, consistent with
12 the approach agreed under the Myanmar EITI and
13 with due regard for civil society participation.

14 (2) Separating the commercial, regulatory, and
15 revenue collection responsibilities within the
16 Myanmar Gems Enterprise and other key state-
17 owned enterprises to remove existing conflicts of in-
18 terest.

19 (3) Monitoring and undertaking enforcement
20 actions, as warranted, to ensure that entities fully
21 adhere to environmental and social impact assess-
22 ment and management standards in accordance with
23 international responsible mining practices, the coun-
24 try's environmental conservation law and other ap-
25 plicable laws and regulations, and that they uphold

1 occupational health and safety standards and codes
2 of conduct that are aligned with the core labor
3 standards of the International Labour Organisation
4 and domestic law.

5 (4) Actively seeking a comprehensive peace
6 agreement that addresses the transparent and fair
7 distribution of benefits from natural resources, in-
8 cluding local benefit-sharing, taking into consider-
9 ation proposals on fiscal federalism for new govern-
10 ance arrangements in resource-rich regions.

11 (5) Implementing on a timely basis policy re-
12 forms aligned with the recommendations of the
13 multi-stakeholder Jade and Gemstone Support Com-
14 mittee and reporting regularly on such reforms.

15 (6) Reforming the process for valuation of
16 gemstones at the mine-site, including developing an
17 independent valuation system to prevent undervalu-
18 ation and tax evasion.

19 (7) Requiring companies bidding for jade and
20 ruby permits to be independently audited upon the
21 request of Myanmar Gems Enterprise or the Min-
22 ister of Natural Resources and Environmental Con-
23 servation, and making the results of all such audits
24 public.

1 (8) Establishing a credible and transparent per-
2 mitting process that closely scrutinizes applicants,
3 including based on past performance, and prevents
4 unscrupulous entities from gaining authorized access
5 to concessions or the right to trade in minerals or
6 gemstones.

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

11 **SEC. 12** **4. DETERMINATION AND REPORT ON ACCOUNT-**
12 **ABILITY FOR ETHNIC CLEANSING, CRIMES**
13 **AGAINST HUMANITY, AND GENOCIDE IN**
14 **BURMA.**

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

19 (1) describes—

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

22 (B) potential transitional justice mecha-
23 nisms in Burma; and

24 (2) includes a determination whether the events
25 that took place in the state of Rakhine in Burma,

1 starting on August 25, 2017, constitute ethnic
2 cleansing, crimes against humanity, or genocide.

3 (b) ELEMENTS.—The report required under sub-
4 section (a) shall include—

5 (1) a description of—

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

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

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

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

21 (E) to the extent possible, a description of
22 the conventional and unconventional weapons
23 used for such crimes and the sources of such
24 weapons;

1 (2) a description and assessment by the Depart-
2 ment of State, the United States Agency for Inter-
3 national Development, the Department of Justice,
4 and other appropriate Federal departments and
5 agencies of programs that the United States has al-
6 ready undertaken or is planning to undertake to en-
7 sure accountability for ethnic cleansing, crimes
8 against humanity, and genocide perpetrated against
9 the Rohingya by the military and security forces of
10 Burma, the state government of Rakhine, Buddhist
11 militias, and all other armed groups fighting in
12 Rakhine, including programs to—

13 (A) train civilian investigators within and
14 outside of Burma and Bangladesh on how to
15 document, investigate, develop findings of, and
16 identify and locate alleged perpetrators of eth-
17 nic cleansing, crimes against humanity, or
18 genocide in Burma;

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

24 (C) document, collect, preserve, and pro-
25 tect evidence of ethnic cleansing, crimes against

1 humanity, and genocide in Burma, including by
2 providing support for Burmese, Bangladeshi,
3 foreign, and international nongovernmental or-
4 ganizations, the United Nations Human Rights
5 Council’s investigative team, and other entities
6 engaged in such investigative activities; and

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

16 (c) PROTECTION OF WITNESSES AND EVIDENCE.—
17 The Secretary of State shall take due care to ensure that
18 the identification of witnesses and physical evidence are
19 not publicly disclosed in a manner that might place such
20 persons at risk of harm or encourage the destruction of
21 evidence by the Government of Burma.

22 (d) AUTHORIZATION TO PROVIDE TECHNICAL AS-
23 SISTANCE.—

24 (1) IN GENERAL.—The Secretary of State is
25 authorized to provide assistance to support appro-

1 appropriate entities that are undertaking the efforts de-
2 scribed in paragraph (2) with respect to ethnic
3 cleansing, crimes against humanity, and genocide
4 perpetrated by the military and security forces of
5 Burma, the state government of Rakhine, Buddhist
6 militias, and all other armed groups fighting in
7 Rakhine State.

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

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

14 (B) Collecting, documenting, and pro-
15 tecting evidence of such crimes and preserve the
16 chain of custody for such evidence.

17 (C) Conducting criminal investigations.

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

20 (3) ADDITIONAL SUPPORT.—The Secretary of
21 State, taking into account any relevant findings in
22 the report required by subsection (a), is authorized
23 to support the creation and operation of transitional
24 justice mechanisms, including a potential hybrid tri-
25 bunal, to prosecute individuals suspected of commit-

