



Burma: Economic Sanctions

Larry A. Nicksch

Specialist in Asian Affairs

Martin A. Weiss

Specialist in International Trade and Finance

August 3, 2009

Congressional Research Service

7-5700

www.crs.gov

RS22737

CRS Report for Congress

Prepared for Members and Committees of Congress

Summary

On October 19, 2007, President George W. Bush issued Executive Order 13449. This followed a September 25, 2007 statement by President Bush that sanctions against Burma, which have been in place since 1997, would be tightened to specifically target leading Burmese officials and impose additional financial and travel sanctions. This report provides background information on existing economic sanctions against Burma and possible options to expand sanctions. It will be updated as events warrant.

Contents

Future Options to Expand Sanctions..... 8

Tables

Table 1. Summary of U.S. Economic Sanctions on Burma..... 5

Contacts

Author Contact Information 10

The following table provides summary information on existing Burma sanctions.

Table 1. Summary of U.S. Economic Sanctions on Burma

Statutory Action	Sanction	Exemption
Executive Order 13047, May 20, 1997. Issued under Section 570 of the Foreign Appropriations Act, 1997 (P.L. 104-208)	Prohibits new investment in Burma by U.S. persons and companies on or after May 21, 1997. New investment is defined as a contract with the Government of Burma or a non-governmental entity in Burma for the development of resources located in Burma, purchasing a share of ownership in a project, or entering into an agreement that provides for a participation in royalties, earnings, or profits from the economic development of resources located in Burma.	Companies with investments in Burma prior to May 21, 1997, and companies or persons with an investment agreement in place prior to May 21, 1997. The exemption includes the U.S. corporation UNOCAL and its investment with the French corporation Total in natural gas exploration and pipeline offshore and across Burma into Thailand. It is estimated that the project provides \$400 million to \$647 million to the Burmese government annually. (Seekins, Donald M. "Burma and U.S. Sanctions: Punishing an Authoritarian Regime." <i>Asian Survey</i> , May-June 2005. p. 452.)
P.L. 108-61, Burmese Freedom and Democracy Act of 2003, July 28, 2003. Extended by P.L. 108-272 and P.L. 109-39.	Requires the President to ban the importation into the United States of certain products of Burma, beginning 30 days after the date of enactment. The import ban expires in one year unless renewed. The President may impose a freeze on funds or assets in the United States of the Burmese Government and individuals who hold senior positions in that government. Requires the U.S. government to vote against the extension of any financial assistance to Burma by international financial institutions. Authorizes the President to deny visas and entry into the United States to former and present leaders of the Burmese government or the Union Solidarity Development Association (a pro-government mass organization).	The President may waive the prohibition on the import of any product from Burma if the President determines and notifies the appropriate congressional committees that to do so "is in the national interest of the United States."
Executive Order 13310, July 28, 2003.	Issued to implement P.L. 108-61. Blocks property and property interests of persons listed in the Annex to the Executive Order and persons designated by the Treasury Department as being senior officials of the Government of Burma and the Union Solidarity and Development Association. Authorizes the Treasury to designate individuals or entities that are owned or controlled by, or acting on behalf of any of those officials or groups. Bans the importation into the United States of products of Burma and the export or re-export of financial services to Burma by U.S. persons. Prohibits a U.S. person or company from approving, aiding, or supporting a foreign party's investment in Burma. Prohibits U.S. persons from purchasing shares in a third-country company if the company's profits are predominantly derived from the company's development of resources in Burma.	Transactions prior to May 21, 1997, between a U.S. person or company and any entity in Burma, but such transactions with banks in Burma must be conducted through a non-U.S. bank. No prohibition on the export of goods and services other than financial services. Exemption for transfer of personal remittances of less than \$300 to and from Burma for "an individual ordinarily resident in Burma, provided that the funds are not being sent by, to or on behalf of a blocked party." The U.S. Office of Foreign Assets Control can issue licenses to non-government organizations to engage in humanitarian or religious activities in Burma.

Statutory Action	Sanction	Exemption
Executive Order 13448, October 19, 2007.	Grants the Treasury Department expanded authority to designate for sanctions individuals responsible for human rights abuses as well as public corruption, and those who provide material and financial backing to these individuals or to the government of Burma.	
Section 489(a)(1) of the Foreign Assistance Act of 1961, as amended.	Burma is listed by the Department of State as a “major illicit drug producing country” and is subsequently barred from receiving some U.S. foreign assistance.	
Narcotics Control Trade Act (19 U.S.C. 2491-2495) and the Customs and Trade Act of 1990 (P.L. 101-382).	Due to its designation as a major drug producing state, Burma is subject to several trade sanctions including: (1) deny to any or all of the products of that country tariff treatment under the Generalized System of Preferences, the Caribbean Basin Economic Recovery Act [19 U.S.C. 2701 et seq.], or any other law providing preferential tariff treatment; (2) apply to any or all of the dutiable products of that country an additional duty at a rate not to exceed 50 percent ad valorem or the specific rate equivalent; (3) apply to one or more duty-free products of that country a duty at a rate not to exceed 50 percent ad valorem; (4) take the steps described in subsection (d)(1) or (d)(2) of this section, or both, to curtail air transportation between the United States and that country; and/or withdraw the personnel and resources of the United States from participation in any arrangement with that country for the pre-clearance of customs by visitors between the United States and that country.	
Executive Order 13464, April 30, 2008.	Froze assets in the United States and prohibited U.S. firms from doing business with three Burmese companies: Myanmar Pearl Enterprise, Myanmar Gem Enterprise, and Myanmar Timber Enterprise.	

Statutory Action	Sanction	Exemption
P.L. 110-286, Tom Lantos Burmese JADE Act of 2008, July 29, 2008	Bans the import of jadeite and rubies mined in Burma and jewelry containing jadeite or rubies made in Burma. Exporters of jadeite, rubies, and jewelry from other countries to the United States must act to prohibit inclusion of articles from Burma; must maintain full records of non-Burmese articles and controls from mine to final finishing to export. Governments must establish “dissuasive penalties” against persons who violate laws and regulations against trade in Burmese-origin articles. The President shall appoint a Special Representative and Policy Coordinator for Burma. The State Department shall submit to Congress reports on countries and entities that supply arms and intelligence aid to the Burmese government; and countries and foreign banks that hold assets of senior Burmese officials. The Act expresses the “sense of Congress” that the investors in the Yadana natural gas project (including the U.S. firm, Chevron) should “consider voluntary divestment over time” if the Burmese government fails to reform politically; and the investors should publicly disclose their role in the investment and the amount of financial support to the Burmese government generated by the Yadana project.	
P.L. 111-42	Renewed P.L. 108-61, The Burmese Freedom and Democracy Act of 2003.	

Source: Compiled by the Congressional Research Service.

Future Options to Expand Sanctions

In response to the Burmese government's suppression of demonstrations at the end of September 2007, the Bush Administration published a large number of names of persons and companies connected with the Burmese government, imposed bans on their travel to the United States, and froze their financial assets in the United States. Existing sanctions against Burma may be viewed as adequate and as necessitating no further action. However, Members of the 111th Congress may seek to exercise additional options. P.L. 110-286, the Tom Lantos Block Burmese JADE Act of 2008 struck provisions in the House version of the bill that would have prohibited "United States persons" from entering into economic-financial transactions, paying taxes, or performing "any contract" with Burmese government institutions or individuals under U.S. sanctions. The prohibition of the payment of taxes specifically included the payments of taxes to the Burmese government by the Yadana natural gas project, in which the U.S. corporation, Chevron, is a major partner. These stricken provisions were replaced in the final bill by a "sense of Congress" statement that Chevron and the other foreign investors should consider voluntary disinvestment from the project. Other options to expand sanctions include the following.

Impose provisions of the USA PATRIOT Act on third country banks and financial institutions that do business with Burmese banks and individuals associated with the Government of Burma: Under Section 311 of the USA PATRIOT Act, *Special Measures for Jurisdictions, Financial Institutions, or International Transactions of Primary Money Laundering Concern*, the Secretary of the Treasury is authorized to impose any of five certain regulatory restrictions, known as "special measures."¹ These can be used upon finding that a foreign jurisdiction, financial institution, or certain transactions or accounts is "of primary money laundering concern." Prior to making such a finding, the Treasury Secretary must consult with the Secretary of State and the Attorney General and consider certain factors relating to the foreign jurisdiction or the particular institution targeted. Among the factors to be considered are: involvement with organized crime or terrorists, bank secrecy laws and regulations, the existence of a mutual legal assistance treaty with the United States, and level of official corruption.

Of the five types of special measures, four of the five impose information-gathering and record-keeping requirements on U.S. financial institutions dealing either directly with the jurisdiction designated as one of primary money laundering concern, or dealing with those having direct dealings with the designated jurisdiction. Under the fifth special measure, a U.S. financial institution may be prohibited from opening or maintaining in the United States a correspondent or payable-through account² for a foreign financial institution if the account involves the designee.

On November 18, 2003, the Secretary of the Treasury designated Burma as a jurisdiction of primary money laundering concern and applied a "special measure" under Section 311 of the USA PATRIOT Act. The special measure prohibits covered U.S. financial institutions from establishing, maintaining, administering, or managing in the United States any correspondent or payable-through account for, or on behalf of, a Burmese banking institution. Covered U.S.

¹ For more information on Title III of the USA PATRIOT Act, see CRS Report RL31208, *International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, Title III of P.L. 107-56 (USA PATRIOT Act)*, by M. Maureen Murphy.

² A payable-through account is an account established at a U.S. financial institution that extends check-writing privileges to the customers of other, often foreign, financial institutions.

financial institutions also are similarly prohibited with regard to any correspondent or payable-through account in the United States for any foreign bank if the account is used by the foreign bank to provide banking services to a Burmese banking institution. However, the special measure applied to Burmese banks does not prohibit U.S. financial institutions from maintaining correspondent accounts otherwise prohibited by this rule if such accounts are permitted to be maintained pursuant to Executive Order 13310 and the Burma-related activity of those accounts is solely for the purposing of conducting exempted activity. This is in contrast to the Treasury Department's imposition of Section 311 on Banco Delta Asia in the Chinese territory of Macau for money laundering for North Korea. Section 311 measures have arguably had their largest success in this designation of Macau-based Banco Delta Asia in September 2005 and the full imposition of Section 311 in March 2007. The North Korean government had used Banco Delta for the majority of its international transactions. Reportedly, following the U.S. proposed designation, over two dozen financial institutions ceased their transactions with North Korea.³ Most importantly, China froze North Korean accounts in the Macau branch of the Bank of China and reportedly cracked down on North Korean efforts to circulate counterfeit U.S. dollars in China near the North Korean border.⁴

Reports of third country banks that do business with Burmese banks or individuals connected to the Burmese government (including drug traffickers) are sparse. Past reports have cited banks in Thailand, Singapore, and China. Burmese accounts in Chinese banks were confirmed in January 2006 when the Bank of China ordered Chinese banks to terminate all U.S. dollar business with the Myanmar Foreign Trade Bank and the Myanmar Investment and Commercial Bank.⁵

³ "Press reports indicate that some two dozen financial institutions across the globe have voluntarily cut back or terminated their business with North Korea, notably including institutions in China, Japan, Vietnam, Mongolia, and Singapore. The result of these voluntary actions is that it is becoming very difficult for the Kim Jong-Il regime to benefit from its criminal conduct." Testimony of Daniel Glaser, Deputy Assistant Secretary for Terrorist Financing and Financial Crimes, U.S. Department of the Treasury before the Senate Committee on Banking, Housing, and Urban Affairs. September 12, 2006.

⁴ Ibid.

⁵ Turnell, Sean. Burma's Economic Prospects. Testimony before the Subcommittee on East Asian and Pacific Affairs, Senate Foreign Relations Committee, March 29, 2006. Sweeney, John. "How Junta protects Mr. Heroin." *The Observer* (London, internet version), April 8, 2001. Casanier, Francois. "A Narco-dictatorship in progress." *BurmaNet News*, June 13, 1996.

Author Contact Information

Larry A. Nicksch
Specialist in Asian Affairs
lnicksch@crs.loc.gov, 7-7680

Martin A. Weiss
Specialist in International Trade and Finance
mweiss@crs.loc.gov, 7-5407