

PERIODIC REPORT ON THE NATIONAL EMERGENCY
WITH RESPECT TO BURMA

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A 6-MONTH PERIODIC REPORT ON THE NATIONAL EMERGENCY
WITH RESPECT TO BURMA DECLARED BY EXECUTIVE ORDER
13047 OF MAY 20, 1997, PURSUANT TO 50 U.S.C. 1641(c) AND 50
U.S.C. 1703(c)



JULY 29, 2003.—Referred to the Committee on International Relations and
ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

THE WHITE HOUSE,
Washington, July 28, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Consistent with section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) (IEEPA) and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have issued an Executive Order (the "Order") that expands the sanctions against Burma currently in place pursuant to the national emergency with respect to Burma declared in Executive Order 13047 of May 20, 1997. Further, I hereby provide the notification to the Congress required by section 3(b) of the Burmese Freedom and Democracy Act of 2003 (the "Act") regarding my exercise of the waiver authorities provided in that section.

In 1997, the United States put in place a prohibition on new investment in Burma in response to the Government of Burma's large scale repression of the democratic opposition in that country. Since that time, the Government of Burma has rejected our efforts and the efforts of others in the international community to end its repressive activities. In May of this year, that rejection manifested itself in a brutal and organized attack on the motorcade of Aung San Suu Kyi, a Nobel Peace Prize winner and leader of the peaceful democratic opposition party in Burma, the National League for Democracy. The Government of Burma has continued to ignore our requests for her to be released from confinement, for the other National League for Democracy leaders who were jailed before and after the attack to be released, and for the offices of the National League for Democracy to be allowed to reopen.

I have now determined that this continued and increasing repression by the Government of Burma warrants an expansion of the sanctions against that government. I applaud the Congress' efforts to address the Government of Burma's action. The prohibitions contained in my Order implement sections 3 and 4 of the Burmese Freedom and Democracy Act of 2003 and supplement that Act with additional restrictions.

The Order blocks all property and interests in property of the State Peace and Development Council of Burma, the Myanmar Foreign Trade Bank, the Myanmar Investment and Commercial Bank (MICB), and the Myanmar Economic Bank as well as all property and interests in property of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be senior officials of the Government of Burma, the State Peace and Development Council of Burma, the Union Solidarity and Development Association of Burma, or any successor entity to any of the foregoing; or to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any of the foregoing.

The Order also prohibits the exportation or re-exportation of financial services to Burma either from the United States or by any United States person and, 30 days from the effective date of the Order, the importation into the United States of any article that is a product of Burma.

The Department of the Treasury, in consultation with the Department of State, will implement a remittance program authorizing limited personal transfers of funds and will authorize most transactions relating to humanitarian, educational, and official United States Government activities. Additionally, the Order grandfathers any activity, or transactions incident to any activity, other than the import of any products of Burma, undertaken pursuant to any agreement that was entered into by a United States person with the Government of Burma or a nongovernmental entity in Burma prior to May 21, 1997, the effective date of Executive Order 13047.

I have determined that the waiver of the prohibitions described in section 3 of the Burmese Freedom and Democracy Act of 2003 with respect to any or all articles that are a product of Burma is in the national interest of the United States to the extent that prohibiting the importation of such articles would conflict with the international obligations of the United States under the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, the United Nations Headquarters Agreement, and other legal instruments providing equivalent privileges and immunities. In addition, in the exercise of my constitutional authorities under Article II of the Constitution to conduct the foreign relations of the United States, I will construe the Act in a manner that will in no way impair the existing ability of United States diplomatic and consular officials to import articles that are a product of Burma that are necessary to the performance of their functions as United States Government officials in Burma.

The Secretary of the Treasury, in consultation with the Secretary of State, is authorized to issue regulations in the exercise of authorities under the International Emergency Economic Powers Act and sections 3(a) and 4 of the Burmese Freedom and Democracy Act of 2003, other than the authority to make the determinations and certification to the Congress that Burma has met the conditions described in section 3(a)(3), to implement the measures provided in the Order. The Secretary of State is also authorized to exercise the functions and authorities conferred upon the President by section 3(b) of the Burmese Freedom and Democracy Act of 2003. All Federal agencies are directed to take actions within their authority to carry out the provisions of the Order.

I have enclosed a copy of the Executive Order I have issued. This Order becomes effective at 12:01 a.m. eastern daylight time on July 29, 2003.

Sincerely,

GEORGE W. BUSH.

EXECUTIVE ORDER

BLOCKING PROPERTY OF THE GOVERNMENT OF BURMA AND PROHIBITING CERTAIN TRANSACTIONS

By the authority vested in me as President of the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Burmese Freedom and Democracy Act of 2003 (July 28, 2003), and section 301 of title 3, United States Code, and in order to take additional steps with respect to the Government of Burma's continued repression of the democratic opposition in Burma and with respect to the national emergency declared in Executive Order 13047 of May 20, 1997;

I, GEORGE W. BUSH, President of the United States of America, hereby order:

Section 1. Except to the extent provided in section 203(b)(1), (3), and (4) of IEEPA (50 U.S.C. 1702(b)(1), (3), and (4)), the Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX, Public Law 106-387) (TSRA), or regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order, all property and interests in property of the following persons that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(a) the persons listed in the Annex attached and made a part of this order; and

(b) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State,

(i) to be a senior official of the Government of Burma, the State Peace and Development Council of Burma, the Union Solidarity and Development Association of Burma, or any successor entity to any of the foregoing; or

(ii) to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

Sec. 2. Except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)), the TSRA, or regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order, the following are prohibited:

(a) the exportation or reexportation, directly or indirectly, to Burma of any financial services either (i) from the United States or (ii) by a United States person, wherever located; and

(b) any approval, financing, facilitation, or guarantee by a United States person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited by this order if performed by a United States person or within the United States;

Sec. 3. Beginning 30 days after the effective date of this order, and except to the extent provided in section 8 of this order and in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to 30 days after the effective date of this order, the importation into the United States of any article that is a product of Burma is hereby prohibited.

Sec. 4. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 5. For purposes of this order:

(a) the term “person” means an individual or entity;

(b) the term “entity” means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) the term “United States person” means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States; and

(d) the term “Government of Burma” means the Government of Burma (sometimes referred to as Myanmar), its agencies instrumentalities and controlled entities, and the Central Bank of Burma.

Sec. 6. I hereby determine that the making of donations of the type specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by or to persons whose property and interests in property are blocked pursuant to section 1 of this order would seriously impair my ability to deal with the national emergency declared in Executive Order 13047, and hereby prohibit such donations as provided by section 1 of this order.

Sec. 7. For those persons whose property and interests in property are blocked pursuant to section 1 of this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken seriously to this order would render these measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in Executive Order 13047, there need be no prior notice of a listing or determination made pursuant to this order.

Sec. 8. Determining that such a waiver is in the national interest of the United States, I hereby waive the prohibitions described in section 3 of the Burmese Freedom and Democracy Act of 2003 with respect to any and all articles that are a product of Burma to the

extent that prohibiting the importation of such articles would conflict with the international obligations of the United States under the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, the United Nations Headquarters Agreement, and other legal instruments providing equivalent privileges and immunities.

Sec. 9. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers to the President by IEEPA and sections 3(a) and 4 of the Burmese Freedom and Democracy Act of 2003, other than the authority to make the determinations and certification to the Congress that Burma has met the conditions described in 3(a)(3) of the Act, as may be necessary to carry out the purpose of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. The Secretary of State is authorized to exercise the functions and authorities conferred upon the President by section 3(b) of the Burmese Freedom and Democracy Act of 2003 and to redelegate these functions and authorities consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 10. The Secretary of the Treasury, in consultation with the Secretary of State, is authorized to determine, subsequent to the issuance of this order, that circumstances no longer warrant inclusion of a person in the Annex to this order and that the property and interests in property of that person are therefore no longer blocked pursuant to section 1 of this order.

Sec. 11. Nothing in this order is intended to affect the continued effectiveness of any rules, regulations, orders, licenses, or other forms of administrative action issued, taken, or continued in effect heretofore or hereafter under 31 C.F.R. chapter V except as expressly terminated, modified, or suspended by or pursuant to this order.

Sec. 12. Sections 1 through 7 of Executive Order 13047 are hereby revoked to the extent they are inconsistent with this order. All delegations, rules, regulations, orders, licenses, and other forms of administrative action made, issued, or otherwise taken under Executive Order 13047, not inconsistent with section 3 of this order and not revoked administratively, shall remain in full force and effect under this order until amended, modified, or terminated by proper authority. The revocation of any provision of Executive Order 13047 pursuant to this section shall not affect any violation of any rules, regulations, orders, licenses, or other forms of administrative action under that order during the period that such provision of that order was in effect.

Sec. 13. All provisions of this order other than section 3 shall not apply to any activity, or any transaction incident to an activity, undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that was entered into by a United States person with the Government of Burma or a nongovernmental entity in Burma prior to 12:01 a.m. eastern daylight time on May 21, 1997.

Sec. 14. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

Sec. 15. This order is effective on 12:01 a.m. eastern daylight time on July 29, 2003.

Sec. 16. This order shall be transmitted to the Congress and published in the *Federal Register*.

GEORGE W. BUSH.

THE WHITE HOUSE, *July 28, 2003.*

ANNEX

The State Peace and Development Council of Burma
Myanma Foreign Trade Bank (a.k.a. Myanmar Foreign Trade
Bank)
Myanma Investment and Commercial Bank (a.k.a. MICB; a.k.a.
Myanmar Investment and Commercial Bank)
Myanma Economic Bank (a.k.a. Myanmar Economic Bank)