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“Block Burmese JADE Act and Recent Policy Developments”

Chairman Ros-Lehtinen, Mr. Berman, and Members of the Committee, thank you for inviting me to testify today. I am pleased to have the opportunity to discuss the central aspects of our Burma policy, including elements of our two-track approach that comprises pressure coupled with principled engagement. In light of my recent visits to Burma in December 2010 and again two weeks ago, I would also like to provide an overview on the Administration’s efforts to promote democracy and human rights in Burma and on key recent developments in Burma including the release of Aung San Suu Kyi from house arrest, the 2010 elections, and the formation of a government headed by former top regime general and now President Thein Sein.

After a comprehensive policy review, which Assistant Secretary of State Kurt Campbell outlined for your Committee in October 2009, the United States launched a dual-track Burma policy, combining pressure with direct dialogue with the regime. We are currently pursuing these parallel and complementary tracks in a full-scale effort to advance progress on core concerns of the United States and the international community, including the unconditional release of all political prisoners, respect for human rights, and an inclusive dialogue with the political opposition and ethnic groups that would lead to national reconciliation. We also urge the Government of Burma to respect its international obligations, including adherence to all UN Security Council resolutions on nonproliferation. We have made these representations repeatedly in the context of Burma’s nontransparent

relationship with North Korea. Although meaningful progress remains elusive, I believe we must continue to bring the full range of diplomatic tools to bear and use both dialogue and pressure to promote positive change in Burma.

First, let me start with the pressure side of our policy. We play a leading role in the international community in shining a light on the regime's dismal human rights record and signaling to Burmese authorities that the world is watching. We support an annual resolution at the UN General Assembly on Burma that draws attention to human rights abuses and calls for cooperation with the international community to achieve concrete progress with regard to human rights, fundamental freedoms and political processes. In 2010, this resolution passed by a higher vote margin than in any previous year. More recently, in March of this year, we supported the annual resolution on Burma at the UN Human Rights Council to renew the mandate of the UN Special Rapporteur on the situation of Human Rights in Burma, Mr. Tomas Ojea Quintana. We continue to call upon the Burmese government to fully cooperate with Mr. Quintana, including by allowing him to visit the country again, which authorities are refusing. Secretary of State Clinton has also expressed our commitment to pursuing accountability for human rights abuses through establishing a commission of inquiry for Burma in close consultation with our friends, allies, and partners at the United Nations.

Coupled with this international pressure, we maintain extensive, targeted sanctions against senior leaders of the Burmese government and military, their immediate family members, their key supporters, and others who abuse human rights. We work closely with our key allies such as the European Union (EU) and its member states, Canada, Australia, Japan, Korea, Southeast Asian nations and others to encourage them to impose sanctions and to press the regime to make meaningful changes. We were pleased that in April 2011, the EU renewed its Common Position on Burma, which authorizes EU sanctions on key regime officials. U.S. sanctions are based on a series of executive orders and key legislation passed over the past 20 years, including the Burmese Freedom and Democracy Act of 2003 and the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008. Successive Administrations have cooperated closely with Congress to ensure that these restrictions, whether economic, financial or travel related, have the same purpose: that the United States will not allow the use of its resources to perpetuate abusive, authoritarian rule.

The Block Burmese JADE Act of 2008 is the most recent piece of Burma-specific legislation and it constitutes an important component of the U.S. sanctions regime. There are several key aspects of the JADE Act, which is more than a ban

on Burmese jade: it focuses on stopping anti-democratic activities in addition to preventing the regime from profiting from trade in precious gems.

The JADE Act includes provisions for financial sanctions and bans the issuance of visas for travel to the United States by former and present leaders of the regime, officials involved in the repression of human rights, other key supporters of the regime, and their immediate family members. These provisions complement already existing economic sanctions and travel restrictions.

The JADE Act also required the appointment of a Special Representative and Policy Coordinator for Burma to ensure high-level, dedicated focus on improving the situation in Burma and promoting genuine democratic reform. I am very pleased to highlight that on April 14, the President nominated Derek Mitchell for that position. He is the right candidate for this tough job. He brings a formidable blend of Asia expertise and senior government and civil society experience to the table. If confirmed, we have every confidence that Mr. Mitchell will fully carry out his mandate to advance all aspects of our Burma policy, pursuing both pressure on and engagement with Burmese authorities as warranted by their actions. If confirmed, he will further strengthen ties with key Burmese stakeholders in civil society, including the National League for Democracy (NLD) and ethnic groups, and coordinate our efforts with Congress, allies, and the NGO community for the benefit of the Burmese people. We look forward to his leadership and hope that his Senate hearing and confirmation will take place as soon as possible.

Finally, the JADE Act bans the import of Burmese jadeite, rubies, and related jewelry into the United States, even if transformed in a third country. The first line of defense is our Customs and Border Patrol certification requirements, issued through a joint DHS/Treasury final rule. We have been very successful in enforcing this prohibition through the final rule, which requires every importer to have written certification at the time of import from the exporter affirming that none of the imported jewelry contains jadeite or rubies mined or extracted from Burma. Our prohibition has been most effective for Burmese rubies and jewelry, as the demand for jadeite in the United States is virtually nonexistent. The second line of defense is the jewelry industry itself; industry sources note that the most valuable rubies from Burma are high quality and very distinctive and that no one in the United States is importing rubies or related jewelry from Burma. The Jewelers Vigilance Committee has conveyed to us its confidence that no rubies imported into the United States were mined or extracted from Burma and that no importer in

the U.S. would want to risk losing their goods or reputation by violating what they refer to as a well-known ban.

Burma's regime continues to reap significant revenues from its tightly controlled gemstone industry, and the JADE Act does not cut off all international trade in Burma's gemstones. Burma's export of rubies and jadeite is doing well, in particular because China's domestic market for jadeite and related jewelry is on the rise. We will continue to call on China and India and other neighboring countries to cooperate with us on this issue.

Before I turn to the engagement track, I would like to note that we regularly hear claims from neighboring countries and a variety of other partners that our sanctions negatively affect the Burmese economy and help to impoverish the Burmese people. Following Burma's elections, some Southeast Asian nations as well as some political parties in Burma called on the United States to ease or remove sanctions. The Administration firmly believes that easing sanctions at this time is premature, absent fundamental reform or other regime actions to address core international concerns, and that Burma's poor economic performance is primarily due to the regime's gross economic mismanagement and pervasive corruption.

While sustaining pressure on the Burmese regime, we have initiated efforts to engage in direct dialogue with senior leaders in the Burmese government over the past 18 months. Assistant Secretary of State Campbell traveled to Nay Pyi Taw, Burma's capital, in October 2009 and May 2010 to meet with senior officials and demonstrate our willingness to embark on this new path of principled engagement. He also met with Burma officials on the margins of UN General Assembly sessions in 2009 and 2010 and in several forums held by the Association of Southeast Asian Nations (ASEAN). During every visit to Burma, we always consult Aung San Suu Kyi, leaders of the NLD, and other civil society leaders.

Building on the dialogue Assistant Secretary Campbell began, I have also made two visits to Burma: one in December 2010 and one more recently, in May 2011. In those meetings, Burmese authorities continue to express a desire for improved relations with the United States and identified several confidence-building measures that they would like from the United States, including our use of "Myanmar" instead of Burma as the official name of the country and our direct assistance toward achieving the country's Millennium Development Goals. The Government of Burma, however, has been opposed to taking any of the steps we, the UN, and others have raised to address core human rights concerns and to begin

an inclusive dialogue leading to national reconciliation and real democratic reform. The regime continues to insist that all of these issues are “internal issues.”

We are disappointed by the lack of any results from our repeated efforts at dialogue. When we embarked on our dual-track policy, we went in with our eyes wide open and we expected that efforts on engagement and real reform would be a long, slow process. We will continue to try, while also seeking concrete ways to ramp up pressure on the Burmese government both in private and in public, to undertake genuine reform. We expect that the Special Representative and Policy Coordinator for Burma will play an essential role in furthering all aspects of our policy and determining if there is a viable way forward.

Against this policy backdrop, I will briefly provide an update and assessment on the political dynamics in Burma, highlighting the government’s election process and its results, the future role of former regime leader Senior General Than Shwe, and the release of leading opposition figure Aung San Suu Kyi.

Burma’s 2010 elections were its first in 20 years. These elections were based on a deeply and fundamentally flawed process with highly restrictive regulations that excluded Burma’s largest pro-democracy party, the National League for Democracy (NLD). They took place while Aung San Suu Kyi, the NLD’s key leader, remained under house arrest, and many other NLD leaders were in prison. The regime cancelled voting in several ethnic minority areas and heavily skewed the playing field in favor of the regime’s proxy Union Solidarity and Development Party (USDP). The few pro-democracy and ethnic political parties that did compete won only a small number of parliamentary seats and mostly at the regional level. Amid widespread media and well-substantiated claims of vote rigging and manipulation, the regime’s USDP won the majority of contested Parliamentary seats, while 25 percent of all seats were reserved for military appointees. The United States clearly and consistently condemned the elections as neither free nor fair.

Not surprisingly, the elections resulted in a government comprised almost entirely of either active or former military members of the regime. Together with military appointees, regime-affiliated members occupy 89 percent of all seats in the legislative bodies. This legislature convened in Nay Pyi Taw to rubber stamp approval of Burma’s President, two Vice Presidents, and key Presidential appointees. With few exceptions, all of those positions were filled by former military leaders and members of the government’s proxy party. The formal regime

State Peace and Development Council (SPDC) dissolved and President Thein Sein, the former Prime Minister within the SPDC structure and a top regime military leader, assumed power on April 1, 2011.

The convening of Parliament and the formation of a so-called “civilian” government marked the completion of what the regime refers to as its seven-step roadmap to a “disciplined and flourishing democracy.” We strongly disagree with this assessment and believe that many questions remain. Specifically, the extent of Senior General Than Shwe’s influence is still an important question. He previously held simultaneous titles as Chairman of the State Peace and Development Council, Commander in Chief of the Armed Forces, and Minister of Defense. In the government announced on April 1, he no longer holds any official title. Some observers believe he will still control the political sphere from behind the scenes while others claim that he has truly retired. Therefore, a significant degree of uncertainty exists regarding Than Shwe’s role and the respective power of the various institutions that emerged such as the Presidency and cabinet, the Parliament, the United Solidarity and Development Party and the military.

With former regime officials occupying most key positions in all branches of government, the United States is not optimistic that we will see any immediate change in policies or progress on our core concerns. There has been some positive rhetoric but it has not translated into concrete action or changes by the regime. In his inaugural address, President Thein Sein used terms such as good governance, transparency, and economic development, a departure from the regime’s typical focus on stability and security and threats posed by opposition figures and entities. President Thein Sein's statements have addressed the need for economic reforms and his economic advisors recently organized a National Poverty Alleviation Seminar. Whether any of this seemingly positive rhetoric will eventually transform into concrete action toward poverty reduction and a free, open society is deeply uncertain.

There is also the noteworthy development of Nobel Laureate Aung San Suu Kyi’s release on November 13 from seven-and-one-half years of house arrest. Though welcome, her release came only at the end of a sentence that we always maintained was unjustified. She has spent 15 of the past 23 years in detention or under house arrest. We have pressed the Government of Burma to ensure it provides adequately for Aung San Suu Kyi’s safety and security as well as for all residents of Burma. Members of the international community, when allowed to visit Burma, are now able to consult with her on a regular basis, as is our Embassy

in Rangoon. I have had the opportunity to discuss a wide range of issues with her during my own visits to Rangoon.

Burmese authorities have dissolved Aung San Suu Kyi's political party, the National League for Democracy, for refusing to re-register as a political party under Burma's restrictive electoral laws. Although officially disbanded, NLD headquarters remains open and activities continue. Recently, the NLD has become more involved in social welfare activities such as HIV/AIDS support and care, education, and provision of clean water to address humanitarian needs. We are committed to fully supporting Aung San Suu Kyi's efforts to seek reinstatement of the NLD as a legal, political party and to hold a direct, meaningful dialogue with senior government authorities.

I would also like to highlight the range of humanitarian assistance activities that we are undertaking inside Burma, which have been authorized consistent with or are exempted from JADE Act sanctions. Managed by USAID and the State Department, we support health and education projects targeting Burma's most vulnerable populations and initiatives to strengthen civil society and promote democracy. Assistance includes livelihoods, water and sanitation projects, a teacher training program and activities to combat infectious diseases and grave public health threats, such as avian influenza, HIV/AIDS, tuberculosis, and malaria.

It is important to mention the effects of the ongoing civil conflict in Burma between government forces and ethnic armies that are fighting for greater autonomy. In the conduct of these wars, the military has destroyed thousands of villages and subjected civilians in these areas to pillage, forced labor, killing and rape. This ongoing internal conflict and the regime's repression have created significant refugee flows and serious burdens on neighboring countries that are hosting Burmese refugees.

While regime-created humanitarian crises, large-scale displacement and human suffering will only come to end through political change that promotes genuine democracy and respect for human rights, we must do what we can in the meantime to provide humanitarian assistance and protection to those who have had to flee their country of origin. For more than 20 years, we have provided crucial support to UNHCR and NGOs for humanitarian assistance and protection to Burmese refugees who have fled from persecution and violence to neighboring countries. Since 2005, the United States has resettled approximately 70,000 Burmese from Thailand, Malaysia, Bangladesh, and India, almost 50,000 of whom

were from the Thai-Burma border region. Later this month, the Department of State's Assistant Secretary for Population, Refugees and Migration will be in Bangladesh to address serious issues of Burma's ethnic Rohingya refugee population in that country. We also support the International Committee of the Red Cross, which facilitates family member visits to political prisoners and provides orthopedic and prosthetic services to landmine victims. These initiatives enable us to tackle immediate humanitarian issues that affect some of the most vulnerable people in Burma.

Our challenges in Burma remain daunting and the human rights situation deplorable. Though Aung San Suu Kyi is free, over 2,000 political prisoners languish in detention, the conflicts and the attacks against civilians continue in the ethnic minority areas, and millions of Burmese citizens are denied basic rights including freedom of speech, assembly, and association. The United States alone cannot achieve progress in Burma, and as I noted at the outset of my testimony, we are tirelessly working with our European allies and our ASEAN and regional partners to urge the Burmese government to constructively engage with the international community and address these long-standing issues. India and China remain important to this issue and we regularly discuss our concerns with them about the Burmese regime. We are in complete agreement with the JADE Act's call for a unified and comprehensive approach to promote long-overdue change for the Burmese people aspiring for genuine and meaningful progress.

Thank you for inviting me to testify before you today. I welcome the opportunity to answer your questions.