

U.S. POLICY ON BURMA

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AND PACIFIC AFFAIRS
OF THE
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U.S. POLICY ON BURMA

THURSDAY, APRIL 26, 2012

U.S. SENATE,
SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 3:03 p.m., in room SD-419, Dirksen Senate Office Building, Hon. James Webb (chairman of the subcommittee) presiding.

Present: Senators Webb and Inhofe.

OPENING STATEMENT OF HON. JIM WEBB, U.S. SENATOR FROM VIRGINIA

Senator WEBB. The subcommittee will come to order. This afternoon the East Asia and Pacific Affairs Subcommittee will examine U.S. policy toward Burma, with particular reference to the recent political reforms in that country, the impact of U.S. policy, including sanctions, on Burma's political transformation, and the prospect for further reforms.

I'd like to also point out at the opening of the hearing, we've got a really, I think, fine list of witnesses today; two different panels. I appreciate all of you coming. There is a lot of business going on in the Senate right now as the Senate prepares to wrap up tonight for this work period. Thursday is always an interesting day in the United States Senate. A lot can get done, but a lot happens. As they say, when the smell of jet fumes fills the air people actually start talking to each other.

But we have a series of votes that are scheduled to begin as early as 3:25. It's my intention to stay here to try and finish this hearing unless I'm called over to vote on the first couple of votes. I appreciate everybody's time constraints here.

Earlier this month, following a historic parliamentary by-election, I visited Burma for the second time in the last 2½ years. Prior to my visit in August 2009, Burma in many ways appeared locked in its status quo of international isolation. The promise of democratic reform had not been fulfilled. Conflicts with ethnic minority groups threatened to fracture the country. Aung San Suu Kyi remained under house arrest. Externally, voices critical of the regime called for additional sanctions and increased isolation of Burma by the United States and the international community.

My 2009 visit, which was carefully planned for months in advance, was the first to Burma by a member of Congress or a national leader in more than 10 years. It reinforced observations that I had made during my first visit to that country in 2001 as

a private citizen, namely that our restricted diplomatic and commercial ties had also limited our connections with the Burmese people and had prevented them from seeing the benefits of a free society.

Both the country and its leadership were becoming more and more remote, increasing the challenge that we all agreed was our ultimate goal, which was to assist and encourage Burma's reentry into the international community. In sum, our attempts to isolate that country had limited our opportunities to push for positive changes, which was the goal of the isolation in the first place.

In September 2009, with my support, the administration redirected U.S. policy to engage directly with the military government, which began sending positive signals. Many within our own government and elsewhere expressed deep skepticism about this approach, but I believed that this redirection was timely and appropriate. And although our engagement over the past 2½ years has been an imperfect process, it has allowed both governments to learn more about each other and to begin the process of building trust in our bilateral relationships.

The transition from a military government to a more representative political system officially began in November 2010 with the election of national and regional parliaments and the transition to a civilian-led government. Most recently, the April 1 parliamentary by-election filled seats vacated by officials who became ministers in the new government.

During my 2009 visit I specifically observed to Burmese Government officials that, at a time when Aung San Suu Kyi was still under house arrest, in order for elections in Burma to be perceived as credible she and her party should be offered the opportunity to participate fully and openly in the process. Aung San Suu Kyi's decision to participate in the by-election and her open active campaign throughout the country was a positive sign of political reconciliation taking place within that country. Moreover, her party won 43 out of the 45 seats contested in the by-election, making it the largest opposition party in both chambers of the national parliament.

It is important to note that Aung San Suu Kyi, whose struggles and sacrifices were at the very core of the reason that sanctions originally took place, is now an elected representative of the existing government and is directly participating in shaping the future of the country.

Burma's movement toward democratic governance has been propelled by two leaders, Aung San Suu Kyi and President Thein Sein, who themselves could not be more different in their background and their life experiences. The world knows about the life and the struggles of Aung San Suu Kyi.

She was a member—is a member of one of Burma's great families. Her father is widely viewed as the father of Burmese independence. He was assassinated when she was 2 years old. She studied overseas in Great Britain. She was denied the results of an election that had proclaimed that she would be the national leader. She spent years under house arrest. She won the Nobel Prize for her struggles.

Thein Sein is less known and we know, quite frankly, less about him. But we do know that he is from a village in a remote part of that country which still does not have basic infrastructure, such as paved roads and electricity; that he chose a military career; that he was in charge of the relief efforts after the tragic cyclone that killed tens of thousands of people in that country; and that from all evidence this experience as much as any other motivated him to try to seek different ways in terms of the governmental process in the country.

These two leaders set their differences aside for the good of the country and joined together to try to move the country toward its promised democracy. I respect both of them for their courage and for their commitment to their country, and the results of their effort are increasingly becoming clear. The international community is once again engaging with the Burmese Government and its citizens in a positive manner. Opposition parties have been formed. Ethnic minority groups are negotiating for peace and open media is being encouraged and allowed. In 1 year more than 600 political prisoners have been released. Aid groups are seeing a new willingness by the government to tackle poverty and health crises in the country. Burma will soon take up the chair of ASEAN, the Association for Southeast Asian Nations, for the first time, representing a vote of confidence by its fellow ASEAN members.

During my last visit earlier this month, I had the opportunity to meet with representatives from different business, political, and media groups. We had a good discussion about their specific concerns. But unanimously they also said that the situation is far different than it was a year ago and that the ability to report and comment on political events inside the country is vastly improved.

This is an incomplete process. More can be done on all sides. We will continue to monitor it closely and press for continued progress. But it's also important to consider these changes in this country and in a global and regional context. First, the events of the Arab Spring last year have taught us that democratic movements often do not share the same path and can occur within a windstorm of violence that is both dangerous and uncertain. Burma's transition to this point is occurring within a relatively stable environment.

Regionally, Burma's reforms, again at this point, place it beyond many of its own neighbors. One of the comments that I heard several times during my recent visit through Japan, Thailand, and into Burma was that Burma, if it can sustain even the changes that have been made over the last year, now places about halfway up inside the ASEAN nations in terms of its political process. They have been releasing political prisoners. They have been opening up their media. They are holding popular elections. There are concerns about policies in other countries, most notably at this time Vietnam and China.

Despite the concerns that we have had and the continuing negotiations we have had with those other countries, we have full trade relations. We lifted our trade embargo against Vietnam in 1994, 18 years ago. China is now our second-largest trading partner, despite internal policies, and in fact we lifted the trade embargo against China 41 years ago.

The State Department's human rights report estimates tens of thousands of political prisoners are incarcerated in China in prisons, administrative detention, or labor camps.

And, in telling contradiction to Aung San Suu Kyi's situation, China's Nobel Peace Prize winner, Liu Xiaobo, remains incarcerated for leading a pro-democracy manifesto that calls for expanded liberties and the end to single party rule in China. China is also undergoing a leadership transition this year, but it will not be decided by a popular vote.

Burma has a long way to go, but its leaders should be acknowledged for concrete efforts to take the country in a different direction. The Government of Burma is attempting a peaceful simultaneous transition in both the economic and political spheres. This is rare, especially in this part of the world.

Our opening to both China and Vietnam decades ago was predicated on the idea that economic reform would ultimately lead to political reform. In Burma, on the other hand, the sustainability of political reforms will depend to a large degree on economic progress in the country. In many ways, economic progress in Burma is ultimately tied to the sanctions that are in place. Most financial transactions, such as using a credit card or getting a bank loan, are difficult or impossible in Burma due to financial sanctions, and it's hard to conduct business, let alone lay the foundations of a modern economy, on a purely cash basis.

United States sanctions targeting Burma are specified in five Federal laws, four Executive orders, and certain Presidential determinations, which I will be asking our witnesses to go through in some detail as they're very complex.

When I met with President Thein Sein's economic adviser, Winston Set Aung, he commented to me that Burma is trying to go overnight from a crawl to a run while its hands and feet are tied. And his request was that at least at this point we could untie their feet.

I hope today's hearing will give us a clearer understanding of the range of sanctions that currently are in place, what the obstacles are to removing them, and the administration's vision for the path ahead.

Two weeks ago, Aung San Suu Kyi, speaking alongside British Prime Minister David Cameron, announced her support for suspending sanctions in response to democratic reforms in Burma. On Monday the European Union agreed to suspend for 1 year all sanctions except for the arms embargo. Earlier this month, the State Department announced that we would begin processing easing the ban on the export of U.S. financial services and investment. I understand the Department of Treasury took steps last week to authorize nongovernmental organizations to conduct certain activities.

We also should be mindful at this point that we as a government should be identifying what measures can incentivize further reforms and build the capacity for democratic governance within Burma. This involves supporting the political reconciliation process and negotiations for peace with Burma's ethnic minority groups, as well as assisting the Burmese people with political and economic

reforms, including providing training and assistance to all political parties and government officials.

So at bottom we have reached a profound moment in the history of our relations with this country, and when such moments occur history teaches us that it's important to act in a way that is clear and decisive. What those actions might be is the subject of this hearing, and to discuss these and other issues before the subcommittee, we have two distinguished panels, as I mentioned earlier.

Our first panel, which is seated; I'd like to welcome Principal Deputy Assistant Secretary Joseph Yun; Assistant Administrator Nisha Biswal; and Office of Foreign Assets Control Director Adam Szubin. And I will introduce the second panel when this panel has completed its witness statements and questions. So welcome.

Secretary Yun.

Let me ask, by the way, if you could summarize your remarks in your opening statement, and your full testimony, all three of you, will be entered in the record at the close of your oral statements.

Secretary Yun.

STATEMENT OF JOSEPH YUN, PRINCIPAL DEPUTY ASSISTANT SECRETARY, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE, WASHINGTON, DC

Mr. YUN. Thank you very much, Mr. Chairman, and thank you for inviting me here today to testify about United States policy toward Burma and the remarkable developments that have been unfolding in that country.

As you mentioned, Mr. Chairman, I will submit a written testimony and I will keep my remarks very short.

Senator WEBB. Your full testimony, as I said, will be entered at the end of your oral statement.

Mr. YUN. Mr. Chairman, I do want to take this opportunity to thank you especially for your leadership in respect to our Asia policy efforts. From Burma to the Philippines to the South China Sea to Japan, your leadership has enabled us to make important progress over the past 3 years. Your insight into Burma is particularly valuable. As you've mentioned, you've made many visits, and I think you are the only U.S. official to have met both Senior General Than Shwe and President Thein Sein.

Let me say three things that remain constant in our Burma policy. First is that it continues to be bipartisan.

Second, it does really reflect partnership between our executive and legislative branches. And third, it is based on close coordination with our friends and partners in Asia and Europe.

During the past 9 months, the Burmese Government, working collaboratively with many local stakeholders, has made significant progress, as you mentioned. We assess this nascent opening as real and significant, though we also believe it is fragile and that we need to carefully calibrate our approach to encourage continued progress.

The election this month of Nobel laureate and former political prisoner, Aung San Suu Kyi, and 42 other National League of Democracy members is the most recent dramatic example of the

political opening under way. In addition to parliamentary by-elections, we're encouraged by other notable political reforms in Burma, including the release of over 500 political prisoners in October 2011 and January 2012. The government is also proceeding with important economic reforms, including adjustment from a convoluted exchange rate regime, easing some onerous import and export requirements, and drafting new foreign investment regulations.

I'd like to go through a couple of steps that the United States has done in response. Over the past year we have responded to change in Burma with increased outreach and concrete actions. During Secretary Clinton's historic visit to Naypyitaw and Rangoon in May 2011, the first such visit in 56 years, she clearly articulated our commitment to partnering with and supporting Burma on a path of reform and to a strategy of matching action for action. To date, we have announced the resumption of cooperation in counter-narcotics and operations to recover World War II remains of U.S. personnel. We have pledged support for assessment missions by international financial institutions and, following the release of over 250 political prisoners in January, we announced our intention to exchange ambassadors.

On April 4, to respond to Burma's by-election, Secretary Clinton announced additional steps, which included our intention to re-establish a USAID mission in Burma, lend United States support for a normal UNDP country program, authorize private United States entities to send funding to Burma for nonprofit activities, facilitate travel to the United States for select Burmese officials and parliamentarians, and begin a process to ease the bans on exportation of United States financial services and new private investment. We plan to proceed carefully as we ease any sanctions, maintaining targeted prohibitions on individuals and entities.

While we recognize the momentous release of political prisoners, we continue to call for the immediate and unconditional release of all prisoners of conscience and the removal of conditions on those already released. We also urge an immediate halt to hostilities in Burma's ethnic minority areas, particularly in Kachin State, where fighting has continued at varying levels of intensity since the cease-fire lapsed in June 2011. We also remain troubled by Burma's military trade with North Korea.

Therefore, I would like to emphasize that much work remains to be done in Burma. Therefore, in conclusion, Mr. Chairman, as we look forward there is a great store of good will within the international community to reengage Burma. Though the challenges that lie ahead are daunting, the efforts of the resilient and diverse people of Burma are as inspiring as ever.

Let me say again how grateful we are to you and the members of this committee, and we look forward to consulting closely with you to support a brighter future for the people of Burma.

Thank you, Mr. Chairman. I am happy to answer any questions you may have.

[The prepared statement of Mr. Yun follows:]

PREPARED STATEMENT OF DEPUTY ASSISTANT SECRETARY JOSEPH Y. YUN

INTRODUCTION

Mr. Chairman, Senator Inhofe, and members of the subcommittee, thank you very much for inviting me here today to testify about U.S. policy toward Burma and the remarkable developments that have been unfolding in the country. Many Members of this committee and in the Congress have been key proponents of human rights and democracy in Burma over the past two decades, and I am sure you all are following events with as much hope and interest as we do at the State Department.

We have been the first to acknowledge that engagement with Burmese authorities early in this administration was a profound disappointment. We expected that it would be a long and slow process, but the lack of progress from late 2009 to mid-2011 was nevertheless disheartening.

As some have said, “That was then, this is now.” Following the formation of a new government in March 2011, positive changes have emerged ranging from the release of political prisoners, to new legislation expanding the rights of political and civic association, and a nascent process toward cease-fires with several ethnic armed groups. Secretary Clinton has become actively involved, including her historic visit to Burma in December 2011, where she met senior Burmese Government officials including President Thein Sein and opposition democracy leader, Aung San Suu Kyi, who has been an inspiration to many around the world, including the Secretary, for her steadfast efforts to bring a more free and prosperous life to her people. She also met with a variety of civil society and ethnic minority representatives.

Because of President Obama’s and Secretary Clinton’s far-sighted leadership and the hard work of our first Special Representative and Policy Coordinator for Burma, Ambassador Derek Mitchell, the Burmese Government has engaged with the United States in candid and constructive exchanges, leading toward concrete progress on our core concerns over the past 9 months.

In both its words and actions, Burmese officials have demonstrated increasing signs of interest in political, economic, and social development, and national reconciliation. Although we assess this nascent opening as real and significant, we also believe it is fragile and reversible—as Secretary Clinton said on April 4, “the future in Burma is neither clear nor certain”—and therefore, we need to carefully calibrate our approach to encourage continued progress. Additionally, the impact of Burma’s reform efforts has not extended far beyond the capital and major cities. This is particularly true in ethnic minority areas: Fighting continues in Kachin State, coupled with reports of severe human rights violations. In Rakhine State systematic discrimination and denial of human rights against ethnic Rohingya remains deplorable. Overall, the legacy of five decades of military rule—repressive laws, a pervasive security apparatus, a corrupt judiciary, and media censorship—is still all too present.

The initial reforms are only the beginning of a sustained process and commitment required to bring Burma back into the international community and toward more representative and responsive democratic governance.

POLITICAL REFORMS

The election of Aung San Suu Kyi and 42 other NLD members is the most recent and dramatic example of the political opening underway in Burma, a culmination of several reforms that together constitute an important step in the country’s democratization and national reconciliation process.

Overall, the NLD won 43 of the 44 seats it contested, losing 1 seat to the Shan Nationalities Democratic Party. Though contesting in all 45 constituencies, the ruling Union Solidarity and Development Party won only a single seat. Less than 7 percent of all seats in Burma’s bicameral legislature were at stake, but the participation and victory of the NLD could give Aung San Suu Kyi a role and voice in government for the first time in the country’s history. The new Parliament convened on Monday, April 23, but NLD members including Aung San Suu Kyi have not yet taken their seats due to concerns about the parliamentary oath. We hope the government and the NLD will work toward a mutually satisfactory resolution of this issue soon to enable the NLD to take their newly won seats and begin this new era in Burma’s politics.

In the runup to the by-elections, we consistently emphasized that the results needed to be free and fair and reflect the will of the Burmese people. We also underscored the importance of an inclusive and open electoral process from the campaign phase to the announcement of results. While not perfect, the by-elections were a significant step forward in comparison to the 2010 elections, which we and others in the international community strongly condemned as neither free nor fair. In advance of the by-election, the Burmese Government’s amendment of certain election-

related laws enabled the NLD, which authorities had dissolved in 2010, to register and participate. The campaign process was more inclusive than in the past with the NLD and 16 other parties participating.

A few days before the April 1 vote, the government invited a number of international representatives and foreign media from ASEAN, ASEAN dialogue partners including the United States and the European Union, and the United Nations to witness the polling. We asked representatives from the National Democratic Institute and the International Republican Institute to be present, and the Burmese Government invited several U.S. journalists to cover the elections. Poll watchers had access to polling stations to survey the voting and the vote count. While they reported some irregularities, including questions with voter lists and security of ballot boxes, overall, the election demonstrated a smooth and peaceful voting process. In addition to the formal diplomatic observation tour coordinated by the Burmese Government, authorities also permitted U.S. Embassy officers and diplomatic colleagues to informally watch voting activities on election day. The Government of Burma did not, however, establish an adequate framework and allow sufficient access for election monitoring or observation to be conducted according to international standards.

Ahead of the vote, several problematic process issues arose. Before the elections, the government cancelled polling in three constituencies in Kachin State, citing security concerns. We also monitored closely credible allegations of election-related irregularities. Aung San Suu Kyi and the NLD raised concerns, publically and privately, about inaccurate voter registration lists, reports of irregularities with advance voting procedures, and local intimidation, including a violent attack at a campaign event in the Naypyitaw district, in which an NLD supporter was injured. We assess that these incidents, while troubling, did not appear to reflect a government-directed effort to skew the outcome of the elections. Although the by-elections marked an improvement from the 2010 elections and a step forward in Burma's reform process, we note that much work remains to be done as we look forward toward the next general election in 2015.

In addition to the parliamentary by-elections, we are encouraged by several other notable political reforms in Burma, including progress on some of our longstanding human rights concerns. The Burmese Government released over 500 political prisoners in October 2011 and January 2012 amnesties. These releases included the most prominent civic leaders and pro-democracy and ethnic minority prisoners of conscience. Many of these individuals had been imprisoned for over 20 years.

The Burmese Government has also made progress toward preliminary cease-fire agreements with several ethnic armed groups including the Chin National Front (January 2012), the New Mon State Party (February 2012), the United Wa State Army (September 2011), and the Shan State Army-North (January 2012). For the first time in 63 years, the Burmese Government and the Karen National Union (KNU) entered into a preliminary cease-fire agreement in January 2012, and began followup peace discussions the week of April 4 on a host of political issues at the heart of Burma's longest running internal conflict. Earlier this month, KNU representatives from Thailand traveled to Rangoon and Naypyitaw for landmark meetings with President Thein Sein, Aung San Suu Kyi, and several government ministers.

These efforts to halt the fighting are important initial steps, but must be followed by genuine dialogue and negotiations to address the longstanding political and economic grievances of ethnic minority populations in Burma including issues of cultural autonomy, natural resources, and power-sharing with the ethnic Burman-dominated central government. Fighting continues in Burma's Kachin State despite periodic cease-fire talks.

The Burmese Government has also pursued important legislative initiatives in support of political reform. Parliament passed and President Thein Sein has signed an International Labor Organization-endorsed labor law allowing workers to form labor unions and protecting freedom of association. The government has revised other legislation to define, prohibit, and criminalize forced labor in Burma, and authorities signed a memorandum of understanding with the International Labor Organization in March to take proactive strides to eliminate all forms of forced labor in Burma by 2015. In addition, Parliament passed and President Thein Sein signed a new law in December 2011 to protect the rights of citizens to peacefully assemble.

The Burmese Government has also taken a variety of measures to relax media censorship. Today, Aung San Suu Kyi's image, her political activities, and her meetings with world leaders are widely covered in local and even in state media. While most news is still subject to censorship, restrictions have been eased on television and the Internet, including on exile news sites. The Burmese Government has recently provided access for a range of foreign journalists for the first time including

from the Voice of America and Radio Free Asia. The government has also started to host its first press conferences and engage with civil society on the topic of press and media freedoms.

ECONOMIC REFORMS

In addition to the notable political reforms I have highlighted, the Burmese Government is proceeding with a strong program of economic reforms. After decades of mismanagement, Burma has become the poorest country in Southeast Asia with approximately one-third of its population living in poverty. In January, for the first time, the Burmese Government agreed that International Monetary Fund (IMF) staff could publish a detailed summary of the conclusions of their 2011 Article IV consultation with the IMF. This year, the IMF consultation addresses issues and challenges facing Burma as it transitions to a more market-based economy, including needed reforms related to the exchange rate regime, trade policy, monetary policy, and fiscal policy. A summary was not only posted on the IMF Web site, but was also published, in the Burmese language, in Burma's state-owned newspaper. We have called on the Burmese authorities to release the full text of the Article IV Staff Report, and we hope that they do so.

A primary distortion in Burma's economy has been the use of multiple exchange rates. Burma's multiple exchange rate system is highly inefficient, limits access to foreign goods to all except well connected entities, and creates opportunities for corruption. On April 2, Burma's Central Bank aligned the official exchange rate close to the prevailing parallel rate, an important first step reforming the exchange rate regime. The Central Bank is now posting the official daily rate on its Web site and allowing the exchange rate to move in line with market forces. There will be teething problems as Burma's financial sector adjusts to this important reform, but it is a necessary first step for a broader agenda of economic reforms that we hope will improve the responsiveness of the government to the needs of the people.

In addition to exchange rate reform, the Burmese Government has discussed the country's budget in Parliament for the first time. Members of Parliament and the Government discussed budget allocations and in March published an approved budget in a state-run newspaper. Budget allocations for the military remain grossly disproportionate, however, at 16.5 percent of the total budget. Allocations for health and education were 3.25 percent and 6.26 percent of the total budget, quite low by regional standards. At the same time, however, Burma reduced the relative share of its military budget in its FY 2012 budget, and allocations for health and education quadrupled and doubled respectively. Authorities have also eased some import and export requirements and drafted a new Foreign Investment Bill.

As businesses consider investing in Burma, it will be critically important to actively promote a strong corporate social responsibility ethic through active engagement with our regional and like-minded partners as well as with the Burmese Government and local communities. We will also engage the Burmese Government to apply nondiscrimination principles and to create a "level playing field" for foreign investors. Moving forward, we believe that by addressing these investment-related concerns, the private sector, including many U.S. companies, will be able to play a positive role in contributing to justice, development, and reform in Burma.

U.S. RESPONSE

Over the past year, we have carefully responded to evidence of change in Burma with increased outreach and concrete actions. As I noted above, the President's decision to ask Secretary Clinton to visit to Burma in late 2011 marked a turning point in our engagement policy, sending a strong signal of support to reformers both inside and outside of government, while never mincing words about our continuing concerns.

During her visit, Secretary Clinton clearly articulated our commitment to partnering with and supporting Burma on the path of reform and committed to a strategy of matching "action-for-action." Since his appointment in August 2011 as the first U.S. Special Representative and Policy Coordinator for Burma, Ambassador Derek Mitchell has played a key role in driving this effort. He has traveled to Burma, along with numerous other senior State Department officials, nearly on a monthly basis, engaging officials in Naypyitaw and consulting with key leaders of civil society, including Aung San Suu Kyi, ethnic minority groups, and the pro-democracy opposition to further catalyze concrete action on our core concerns.

The actions we have undertaken thus far have been measured and meaningful. During Secretary Clinton's visit to Burma, we announced that we would resume cooperation on counternarcotics and operations to recover missing U.S. personnel from World War II, which the Burmese Government suspended in 2004. We also pledged

our support for assessment missions and technical assistance by international financial institutions and pursued a temporary waiver of trafficking in persons sanctions to fulfill this commitment. Following the substantial release of over 250 political prisoners in January, we responded with an announcement regarding our intention to upgrade diplomatic ties to exchange ambassadors.

More recently, we have announced additional U.S. actions. On April 4, Secretary Clinton announced five key steps that the United States would take to respond to Burma's parliamentary by-elections and the progress that they signified. We announced our intention to reestablish a USAID mission at our Embassy in Rangoon, lend U.S. support for a normal UNDP country program, authorize funds to be sent by private U.S. entities to Burma for nonprofit activities, facilitate travel to the United States for select Burmese officials and parliamentarians, and begin a process to ease the bans on the exportation of U.S. financial services and new investment. Since that announcement, the Treasury Department has issued a general license authorizing certain financial transactions in support of humanitarian, religious, and other not-for-profit activities in Burma, including projects for government accountability, conflict resolution, and civil society development.

In terms of easing the bans on the export of U.S. financial services and new investment for commercial activities, we plan to proceed in a careful manner. We will also work closely with the U.S. Department of the Treasury to reexamine and refresh the Specially Designated Nationals list.

We have taken important steps on the assistance front as well, which my colleague from USAID, Assistant Administrator Nisha Biswal, will address. I will say, however, that in the immediate term, the State Department has announced new activities for microfinance and health, particularly in ethnic minority areas, based on our consultations with civil society in Burma. Special Representative Mitchell launched an interagency scoping mission to Burma to assess opportunities and obstacles to Burma's transition and to align U.S. assistance efforts in a manner that promotes the overall reform process, directly benefits the people of Burma, and alleviates poverty, particularly in Burma's rural areas.

We continue to emphasize that much work remains to be done in Burma and that easing sanctions will remain a step-by-step process. We have pursued a carefully calibrated posture, retaining as much flexibility as possible should reforms slow or reverse, while pressing the Burmese Government for further progress in key areas.

We have serious and continuing concerns with respect to human rights, democracy, and nonproliferation, and our policy continues to blend both pressure and engagement to encourage progress in all areas. While we recognized the momentous release of prisoners last January, we continue to call for the immediate and unconditional release of all political prisoners and the removal of conditions on those released. The State Department's Bureau for Democracy, Human Rights, and Labor estimates at least several hundred prisoners of conscience are still behind bars. Through an upcoming human rights dialogue, we will engage officials on developing a credible, transparent, and inclusive process to identify remaining political prisoners of conscience, seek access to prisons for international organizations, and press for the immediate release of all political prisoners unconditionally. We have also spotlighted our concerns regarding remaining political prisoners in human rights resolutions at the U.N. General Assembly and the U.N. Human Rights Council, which we have supported or cosponsored.

In every interaction with the Burmese Government, at every level, we are also urging the immediate halt to hostilities in Burma's ethnic minority areas, particularly in Kachin State, where fighting has continued at varying levels of intensity since the cease-fire lapsed in June 2011. We have consistently urged unfettered access for United Nations and humanitarian agencies to Burma's conflict zones. This access is crucial so that the international community can assess needs and attempt to assist tens of thousands who have been displaced as a result of the fighting. While the Burmese Government has recently allowed limited access to U.N. agencies to deliver assistance to certain areas of Kachin State, we are pressing for regular and sustained access to all areas, including those controlled by the Kachin Independence Army, to provide humanitarian aid to internally displaced persons (IDPs). In March, the United States contributed \$1.5 million in assistance to the United Nations High Commissioner for Refugees (UNHCR) to support IDPs in Kachin State.

We also remain concerned by serious human rights violations against the ethnic minority Rohingya people who are denied citizenship and human rights, such as freedom of movement and freedom to marry, among other rights all people should be able to exercise. We will urge the Burmese Government, including through a human rights dialogue, to pursue mechanisms for accountability for the human rights violations that have occurred as a result of fighting and discrimination in

ethnic areas. We will also continue to spotlight continued abuses in Burma at the United Nations and other multilateral and regional forums including ASEAN.

While we are pleased that the NLD, Aung San Suu Kyi's pro-democracy party, has been allowed to reregister and participate in the political process, the degree to which reforms are genuine and irreversible will be reflected in the amount of political space the opposition parties will have and the amount of dissent the government will tolerate in the coming weeks and months. We will continue to monitor the democratization process carefully, including the issue concerning the parliamentary oath, and urge the Burmese Government to take steps, in terms of both policy and legislative reform, to promote greater civic openness and support for a vibrant civil society and more free media.

Much more needs to be done on the legal and institutional front for the government to definitively break with its legacy of the past. Dozens of oppressive, arbitrary, and unfair laws used to convict political prisoners remain on the books and new laws need to be effectively implemented to make a true difference in the lives of the people.

In addition to continuing human rights and democracy concerns, we remain troubled by Burma's military trade with North Korea. This is a top national security priority, and we will continue to press the government on this issue. We are collaborating closely with the EU, ASEAN, and other key regional partners including South Korea, Japan, and Australia to stress to Burma the importance of full compliance with U.N. Security Council Resolutions 1718 and 1874 and to underscore to senior Burmese officials the seriousness of this matter and its potential to impede progress in improving our bilateral ties.

We will also continue to urge the Burmese Government for greater transparency on nonproliferation. We were encouraged by public assurances from senior officials, such as Lower House Speaker of Parliament, Thura Shwe Mann, in January 2012, that Burma has no intention of pursuing a nuclear weapons program and is committed to full compliance of all its international nonproliferation obligations. We have encouraged the Government of Burma to signal its commitment through concrete actions such as signing and ratifying the IAEA Additional Protocol, updating its Small Quantities Protocol and improving cooperation with the International Atomic Energy Agency.

CONCLUSION

As we look forward, there is a great store of good will within the international community to reengage Burma, rebuild its capacity, and reconnect with the Burmese people, should the reform process continue. Though the challenges that lie ahead are daunting, the efforts of the resilient and diverse people of Burma are as inspiring as ever.

Let me finally take a moment to acknowledge the leadership of Congress in promoting change in Burma. So many Members of Congress have demonstrated consistent and personal commitment over many years to democratic reform, human rights, and the welfare of the Burmese people—and many of you have traveled to the region in recent months to see for yourselves conditions on the ground and meet with the reformers themselves. We are grateful for your efforts, and we look forward to consulting closely with you as we continue to support a brighter future for Burma.

Senator WEBB. Thank you very much, Secretary Yun.

Administrator Biswal, welcome back to the subcommittee.

STATEMENT OF HON. NISHA BISWAL, ASSISTANT ADMINISTRATOR FOR ASIA, U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT, WASHINGTON, DC

Ms. BISWAL. Thank you, Mr. Chairman, and it is indeed a pleasure to be back here to testify about the developments in Burma, which are quite exciting.

Senator, you covered much in your statement of the trends and developments that give us so much cause for optimism in Burma, and I wanted to outline to you how USAID is preparing the way forward. The U.S. assistance relationship with Burma dates back to 1950 and we have had an aid mission in that country previously, which was suspended in 1988. But our assistance programs, par-

ticularly our humanitarian programs for the people of Burma, have continued from years past. Currently we have had a bilateral assistance program of approximately \$38 million per year that has addressed the humanitarian requirements both inside Burma and along the Thai-Burma border, as well as support for democracy, human rights, and independent media.

Recently, Secretary Clinton announced the opening of a USAID mission after the successful April by-elections. We plan to have a mission director in-country by the fall of this year and a fully staffed mission in place by next summer. We think that that ability to have people on the ground will fundamentally transform our ability to engage in support of the Burmese people. It will allow us to directly support Burmese civil society, to support reconciliation efforts, as well as continued assistance to vulnerable populations, particularly ethnic minority populations. It will allow us to engage with reform-minded institutions inside government and outside, particularly in strengthening their understanding and capacity to engage in democratic governance. It will allow us to engage more efficiently with the donor community. And finally but most importantly, it will allow for a greater degree of oversight as we engage in this new and evolving environment.

Our challenges as we move forward are going to be to build upon the resilience of the Burmese people and the capacity of the Burmese people without overwhelming them with the influx of assistance from all donors that is not well coordinated. So we hope that as we take these steps in this sequential order, we will be able to assist in an efficient and effective manner. I'm mindful of the words of Aung San Suu Kyi when we discussed our plans with her, that assistance should be building upon resilience and avoiding dependency.

Mr. Chairman, we have worked very closely with this committee and with all relevant committees in Congress on Burma policy and pledge to continue to consult closely with you as we move forward.

I'll stop there and engage any questions that you may have.

[The prepared statement of Ms. Biswal follows:]

PREPARED STATEMENT OF ASSISTANT ADMINISTRATOR NISHA BISWAL

Chairman Webb, Ranking Member Inhofe, and distinguished members of the committee, thank you for the opportunity to testify before the committee today on the important issue of our policy toward Burma. As my esteemed colleague, Principal Deputy Assistant Secretary Yun has recounted the dramatic changes underway and covered the broader U.S. policy towards Burma, I will limit myself to discussing the areas under my jurisdiction: U.S. assistance programs and policies in Burma and along the Thai-Burma border.

As Principal Deputy Assistant Secretary Yun noted, the significant steps taken by the Government in Burma have been matched by actions from the United States. On April 4, Secretary Clinton announced that the United States Agency for International Development would reestablish its mission in Burma. The Secretary's announcement recognizes the significant opening to strengthen our ties with the people of Burma and provide critical support in their efforts for political and economic reform.

PAST U.S. ASSISTANCE

The United States signed the first U.S.-Burma Economic Cooperation Agreement in 1950, and thus has had a long history in that country. Following the events in 1988, USAID halted all economic assistance to Burma and USAID American staff and contractors were evacuated. Since that time, USAID has not had a mission inside Burma. While we suspended our mission in Burma, we did not stop supporting

the Burmese people. The United States has continued to provide humanitarian assistance to Burmese refugees and migrants in Thailand for the last 20 years and has also provided support for human rights, democracy, and independent media through USAID and the State Department.

Beginning in 2003, USAID resumed limited, targeted health programs—because infectious diseases prevalent in Burma had the ability to spread and undermine U.S. disease prevention efforts here at home and in other parts of the world. These programs, which were implemented through nongovernmental organizations, were managed from our regional mission in Bangkok, Thailand. Significantly, in response to the devastation of Cyclone Nargis in May 2008, the USG provided more than \$83 million in humanitarian assistance through USAID and the Department of Defense.

Since FY 2010, funding for the USAID program has been approximately \$38 million per year, providing humanitarian assistance for Burmese living along the Thai-Burma border, in the Irrawaddy Delta and Central Burma, and supporting human rights and independent media—all of which has been channeled exclusively through U.S. and international organizations and in strict adherence to legislative requirements.

BURMA TODAY

On my recent visit to Burma, I was struck both by the resilience of the Burmese people, and the extreme fragility of its institutions. Decades of mismanagement and missed opportunities have taken their toll. Burma is a country of rich natural resources, but it is not yet able to meet its development needs due in part to weak infrastructure, low service delivery capacity, and corrupt governance systems.

Burma today is ranked among the least developed countries in the world and is one of the poorest in Asia. The United Nations Human Development Index, which is a composite index reflecting health, education, and income indicators, ranks the country at 149 out of 187 countries with comparable data. According to the World Health Organization, approximately 35 percent of children suffer from stunting.

Despite the fertile landscape, many parts of the country suffer from high levels of food insecurity and according to the World Food Programme, the national prevalence of acute malnutrition among children under 5 is 9 percent. Dengue, measles, avian influenza, HIV/AIDS, and tuberculosis (TB) all pose significant health threats in Burma, and it is in this area of communicable diseases where strengthening health infrastructure is most critical. Burma's rate of TB prevalence is three times higher than the global average and according to Médecins Sans Frontières, 85,000 people in Burma are in need of lifesaving antiretroviral treatment for HIV/AIDS.

Yet, the nascent changes underway have fostered a sense of hope amongst the people. During my visit I had the opportunity to meet with ethnic and religious leaders, released political prisoners, and Burmese civil society leaders. And while I agree with their assessment that the reality on the ground for the average citizen, particularly in the ethnic areas has not yet changed or improved as a result of the reforms, I was also struck by the hope, optimism, and determination of the individuals and organizations with whom I met, to engage the government in support of reforms and reformers in order to realize a better future for their country.

USAID MISSION

This is precisely the opportunity and challenge for the United States, and for USAID. Secretary Clinton's announcement authorizing USAID to reestablish its mission will enable USAID to have the staff and capability to partner with and support the Burmese people in this endeavor. By supporting reform efforts and strengthening nascent civil society organizations, we will build on our existing commitment to improve the welfare and well-being of the people in Burma.

Pursuant to the Secretary's announcement, USAID sent to this committee Congressional Notification No. 38 informing of our intent to reopen the USAID mission later this year. We expect to have a small mission within the U.S. Embassy with 5 to 7 U.S. Direct Hire Foreign Service officers and 8 to 10 locally hired Foreign Service National staff. We anticipate that as program needs and resource implications are still to be determined, the exact makeup and size of the mission may shift. Mr. Chairman, our plan is to have a mission director in place by the fall of this year and to have the mission fully staffed by next summer. We are sending in a retired USAID Foreign Service officer to serve as interim Mission Director.

Mr. Chairman, as CN No. 38 notes, the expected startup costs for the USAID mission in this fiscal year 2012 are approximately \$600,000. The fiscal year 2013 budget request assumes an operating budget for Burma of \$1.7 million. While we are still developing our final mission plan, and the overall operating budget may change, we plan to absorb the operating costs of the Burma mission from within the

amounts requested in the President's budget request for USAID Operating Expenses.

The establishment of this mission will enable USAID to engage more with Burmese organizations and institutions to support political reforms, foster ethnic reconciliation, and strengthen the capacity of reform-minded individuals and institutions. It will enable greater oversight of our programs and stronger coordination with other donors, multilateral institutions and eventually the private sector.

ASSISTANCE PRIORITIES

During my visit, I met with members of the Burmese Government, civil society, including nongovernmental organizations and bi- and multilateral donors to assess the political, economic, and social changes occurring in Burma and the opportunities for our engagement. In addition, USAID took part in an interagency scoping mission to identify the impediments to change, and look at the ways in which the USG could best engage as we observe signs of change in Burma in the future.

While we have not yet completed the programmatic assessments of needs and priorities for U.S. assistance in Burma, I would like to share with you our preliminary thoughts based on my visit and the scoping mission. We have identified four broad priorities, including the need to (1) support reforms by strengthening civil society, (2) build the capacity for institutional processes for good governance (3) support reconciliation, and (4) ensure close coordination with the international donor community.

Furthermore, we see a need to continue humanitarian assistance to the refugee and displaced populations along the Thai-Burma border and to expand access and assistance to vulnerable populations in Kachin State and other ethnic areas.

STRENGTHENING CIVIL SOCIETY

A broad and resilient civil society exists in Burma despite decades of repression. Most local civil society organizations are welfare and service-delivery focused, but there is a budding movement for advocacy around particular issues, such as transparency of government budgeting and decisionmaking, inclusive policy dialogue, and promotion of human rights. The organizations are small and informal, with little management or financial structure—and they need training, mentoring, and strengthening of their technical capacity.

While the operating space for civil society at the national level has improved to a degree, most organizations are grassroots and operate in remote regions where change is harder to discern. Even at the national level, licensing and registration requirements, associated fees, and changing restrictions governing civil society, matched with an inefficient bureaucracy and severely limited communications, have made it difficult for most civil society groups to operate safely and legally. Additionally, very few local organizations have the capacity to partner directly with international donors. Yet a robust civil society is crucial for reforms to penetrate and take root at all levels of government and society. So USAID will prioritize engaging with and strengthening local civil society organizations.

BUILDING THE CAPACITY OF INSTITUTIONAL PROCESSES FOR GOOD GOVERNANCE

Mr. Chairman, a consistent message we heard from both the executive and legislative government officials in Burma was their limited technical capacity and knowledge of bureaucratic procedures. This lack of technical capacity in government was also identified by civil society and human rights groups as a major roadblock to reform. For reforms to be truly irreversible, it will require transforming the culture and capacity of a large and entrenched bureaucracy. Some ministries are already aggressively tackling this challenge, while others are not. We believe engaging with the government in priority sectors such as health and agriculture, where there are reform-minded leaders, combined with support for local and international nongovernmental organizations (NGOs) is critical to addressing the alarming health and nutritional indicators in the country. Other priority areas of governance we hope to explore include parliamentary strengthening, electoral systems strengthening and support for the rule of law and an independent judiciary.

NATIONAL RECONCILIATION

Ongoing ethnic divisions and armed conflicts continue to be a significant concern. While the government has been signing cease-fire agreements with many armed ethnic groups, these agreements, absent a more inclusive dialogue to address political grievances and development needs, will not lead to long-lasting peace. USAID, along with other donors, is exploring ways to support a reconciliation process. How-

ever, there are complex dynamics underlying the conflicts in many ethnic areas and the road to reconciliation will be long and arduous. In the meantime, we are committed to maintain our support for the Burmese populations, particularly the refugee and displaced communities on the Thai-Burma border. Ambassador Mitchell has led efforts to press other donors to maintain and expand their assistance to these populations as well. USAID continues to monitor closely the humanitarian situation in Burma, including access limitations and potential openings in Kachin and other border areas.

DONOR COORDINATION

Because of the many development challenges in Burma—supporting reforms, engaging civil society, supporting good governance, and fostering ethnic reconciliation—we recognize the benefits of working in tandem with the other donors. The close relationships we have established with teams working on Burma issues at both the Australian Agency for International Development and the United Kingdom’s Department for International Development will allow us to better coordinate our programs going forward. We are also looking at ways to engage Japan, and other Asian donors such as Thailand and Indonesia, as well as regional organizations such as the Association of South East Asian Nations. We are keenly aware of the need to build sustainable aid mechanisms and local capacity in a way that maximizes efficiency and impact, while avoiding duplication and without overwhelming the government and local organizations.

CONCLUSION

Mr. Chairman, I believe this is a critical moment for laying the groundwork to address development needs in Burma that have long been unmet. The development trajectory in Burma will not be turned around overnight. But our investment, at this time, can help forestall greater human tragedies and will, in a sense, determine the steepness of the road ahead.

We are looking forward to increasing our engagement with the Burmese people. As these reforms gain momentum we look forward to the elections in 2015, which will be the true test of a transition to democracy. And we are mindful of the advice provided by Daw Aung San Suu Kyi when Ambassador Mitchell and I discussed plans for a USAID mission to ensure that our assistance builds upon the resiliency of the Burmese people.

USAID’s core mission is to promote peace and stability by fostering economic growth, protecting human health, providing emergency humanitarian assistance, and enhancing democracy in developing countries. We undertake these efforts to improve the lives of millions of people worldwide because we believe it represents American values and advances our national interests. We are committed to supporting a peaceful transition in Burma that is consistent with our mission and in the mutual interest of the American people and the people of Burma.

I appreciate the vital role the Congress has played on Burma. USAID has consulted closely with this committee and other congressional stakeholders and will continue to do so to ensure that our programs reflect congressional intent.

I appreciate the opportunity to share with you our proposed points of engagement to address the challenges ahead in Burma. I am eager to hear your advice and counsel and welcome your questions.

Senator WEBB. Thank you very much.

Before I introduce Director Szubin, I neglected to point out at the opening that we do have a written statement from the U.S. Chamber of Commerce. They have asked that it be considered a part of the record and it will be put into the committee record after the testimony of panel number two.

Director Szubin, welcome.

STATEMENT OF ADAM J. SZUBIN, DIRECTOR, OFFICE OF FOREIGN ASSETS CONTROL, U.S. DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Mr. SZUBIN. Thank you very much, Mr. Chairman. Chairman Webb, Ranking Member Inhofe, thank you very much for the opportunity to appear today to discuss current U.S. sanctions against

Burma and how we are responding to the very positive developments that you outlined and that others have already discussed.

Sanctions are an instrument of U.S. foreign policy and need to match and reflect developments of that policy as it evolves. We have all witnessed over the past 8 months the dramatic and rapid developments that you outlined, including the election of Aung San Suu Kyi and her party to the Parliament, along with the release of hundreds of political prisoners and other important reforms.

We must recognize the important role that our broad as well as targeted array of sanctions have played in these developments, along with sanctions imposed by our partners in the European Union and elsewhere. We intend to continue some of the targeted aspects of those sanctions against those who oppose reform. At the same time, we must also adapt our framework in response to the progress we have seen on the ground.

We intend to proceed cautiously. The United States still has concerns in Burma, including the remaining political prisoners, ongoing conflict in ethnic minority areas, and serious human rights abuses, as well as Burma's troubling military ties to North Korea.

What Secretary Clinton announced on April 4 was the beginning of a targeted process to ease certain sanctions in a manner that will contribute to our overarching principled engagement policy. We understand the importance of retaining flexibility to tighten or ease our sanctions as warranted by developments on the ground.

Our sanctions have played a central role in United States policy on Burma over the past 20 years. In the wake of the Burmese regime's 2007 crackdown on Buddhist monks and others, the administration and Congress intensified our sanctions, expanding the scope of our authorities and increasing our efforts to identify and track the assets of bad actors. President Bush issued two new Executive orders and worked with Congress to enact the JADE Act of 2008. Throughout 2007–2008, the Treasury Department targeted bad actors in Burma aggressively, designating over 60 entities and a dozen individuals. Treasury targeted wealthy cronies of the Burmese regime along with their companies and commercial holdings, highlighting their ties to illicit activities, including drug trafficking and arms dealing.

U.S. economic sanctions have made it more difficult and more costly for the Burmese regime and its financial supporters to profit from their oppressive policies. These sanctions have weighed heavily on decisionmakers and on their inner circle, and we have heard them complain privately and publicly, repeatedly and bitterly, about the impact that these sanctions have had in restraining them. And we believe that has all been to the good.

At the same time that we concentrated our sanctions on the military government and its cronies, we worked diligently to minimize the adverse impact of sanctions on the Burmese people in every way possible. Our sanctions have not restricted travel or the exchange of information to or from Burma. We have broadly licensed personal remittances to Burma. In May 2008, in response to Cyclone Nargis, OFAC swiftly issued a new general license to facilitate the flow of aid to the Burmese people, authorizing financial transactions in support of not-for-profit, humanitarian or religious activities.

In addition, OFAC regularly issues specific licenses authorizing financial transactions in support of a broad range of not-for-profit activities in Burma, including conservation, higher education, civil society development, and certain noncommercial development projects.

In recognition of the historic reform efforts under way, Secretary Clinton outlined on April 4 several key steps that the administration would be taking. In particular, Secretary Clinton announced that we would enable a broader range of not-for-profit activities, and begin a targeted easing of the bans on the export of financial services and new investment.

At the same time, Secretary Clinton underlined that sanctions and certain prohibitions would stay in place against those individuals and institutions that thwart efforts at reform. We are working already to implement those commitments. On April 17, OFAC issued a general license authorizing financial transactions in support of a broader range of not-for-profit activities in Burma, and we are now preparing to take additional steps with regard to new investment and financial services. But, as Secretary Clinton announced, these measures will not constitute a wholesale lifting of sanctions. We will retain targeted measures against cronies of the former regime and their corporate holdings, and our sanctions framework retains its flexibility. If developments in Burma reverse course, we do have the authority to reverse these loosening measures.

In summary, the Department of Treasury will continue to use a balanced regime of relaxing and retaining sanctions as appropriate to promote U.S. foreign policy goals toward a more free, more prosperous, and more democratic Burma. As the Burmese people determine their way forward and embrace the opportunity for democratic representation, we stand ready to work with our colleagues across the administration to assist them.

Thank you very much.

[The prepared statement of Mr. Szubin follows:]

PREPARED STATEMENT OF DIRECTOR ADAM J. SZUBIN

INTRODUCTION

Chairman Webb, Ranking Member Inhofe, and distinguished members of the committee, thank you for the opportunity to appear before you today to discuss current U.S. sanctions against Burma and how we are responding to the positive developments in that country. I am pleased to be here with Deputy Assistant Secretary Joseph Yun and Assistant Administrator Nisha Biswal.

RESPONSE TO RECENT DEVELOPMENTS

Sanctions are an instrument of U.S. foreign policy and need to match and reflect developments in that policy. We have all witnessed over the past 8 months dramatic and rapid developments in Burma, including election of Aung San Suu Kyi and her party to the Parliament, the release of hundreds of political prisoners, and other important political reforms. We must recognize the important role that our broad-based array of sanctions have played, but we also must adapt our framework in response to the progress we see on the ground. We intend to proceed cautiously; the United States still has concerns in Burma, including the remaining political prisoners, ongoing conflict in ethnic minority areas and serious human rights abuses, as well as Burma's troubling military ties to North Korea. What Secretary Clinton announced on April 4 was the beginning of a targeted process to ease certain sanctions in a manner that will contribute to our overarching principled engagement pol-

icy. We understand the importance of retaining flexibility to tighten and ease our sanctions as warranted by developments on the ground.

BACKGROUND: USE OF SANCTIONS AGAINST BURMESE OFFICIALS AND JUNTA CRONIES

As one tool among many that the United States and the international community have used to address concerns in Burma, our array of sanctions have played a central role in our policy on Burma over the past 20 years. In the wake of the Burmese regime's 2007 crackdown on Buddhist monks, the administration and Congress intensified our sanctions by expanding the scope of our authorities and increasing our efforts to identify and track the assets of bad actors. President Bush issued two new Executive orders and worked with Congress to enact the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008. On September 27, 2007, the Department of the Treasury's Office of Foreign Assets Control ("OFAC") designated 14 senior officials of the Burmese regime.

Throughout 2008 and into January 2009, the Treasury Department continued to target bad actors in Burma aggressively, designating 56 entities and 12 individuals. Treasury targeted wealthy cronies of the Burmese regime and their companies and commercial holdings, highlighting their ties to illicit activities including drug trafficking and arms dealing. Treasury sanctioned the holdings of regime cronies: Win Aung, including his Dagon companies, and Steven Law and Cecilia Ng, including their Asia World and Golden Aaron companies. We also expanded sanctions against regime crony, Tay Za, to include his Htoo Group and Air Bagan.

U.S. economic sanctions have made it more difficult and more costly for the Burmese regime and its financial supporters to profit from their repressive policies. Senior Burmese officials, such as the Foreign Minister, have publicly complained about sanctions and called for them to be lifted. And, in private conversations, influential businessmen in Rangoon with connections to the regime have complained about the detrimental effects sanctions have had on their business operations and lives. Between July 1, 2007, and March 24, 2011, 355 transactions totaling approximately \$11,100,000 involving Burmese individuals or entities were reported to the Treasury Department as blocked.

At the same time, we have worked diligently to minimize the adverse impact of our sanctions on the Burmese people in every way possible. Our sanctions do not restrict travel or the exchange of information, to or from Burma. In May 2008, in response to Cyclone Nargis, OFAC swiftly issued a new general license to facilitate the flow of aid to the Burmese people by authorizing certain financial transactions in support of not-for-profit humanitarian or religious activities in Burma. In addition, OFAC regularly issues specific licenses authorizing financial transactions in support of a range of not-for-profit activities in Burma, including conservation, higher education, civil society development, and certain noncommercial development projects.

In recognition of both the historic reform efforts underway in Burma, as well as the remaining concerns about those who oppose this transformation, Secretary of State Clinton outlined on April 4 several key steps the administration would take. In particular, Secretary Clinton announced that we would enable a broader range of nonprofit activities in Burma, and begin a targeted easing of the bans on the exportation of financial services to Burma and new investment in Burma, as part of our broader efforts to accelerate economic modernization and political reform. At the same time, Secretary Clinton underlined that sanctions and prohibitions would stay in place against those individuals and institutions that thwart efforts at ongoing reform.

Treasury is working to implement these commitments, and on April 17 OFAC issued a general license authorizing financial transactions in support of a broad range of not-for-profit activities in Burma. This general license replaces the earlier license issued in response to Cyclone Nargis authorizing financial transactions in support of not-for-profit humanitarian and religious activities. It expands that authorization to allow funds to be sent to Burma in support of not-for-profit activities such as conservation, education, democracy-building and good governance, and certain noncommercial development projects.

We are now preparing to take additional steps with regard to new investment and financial services. But, as Secretary Clinton announced, these measures will not constitute a wholesale lifting of sanctions. We will retain sanctions targeting, among others, parastatals, cronies of the former regime and their corporate holdings. And our sanctions framework is fluid and flexible—if developments in Burma reverse course, we can revoke licenses and reverse other measures.

In our use of sanctions to pressure the Burmese Government to change, the United States has not acted alone. Sanctions have maximum effect when they are

part of a coordinated multilateral effort. Although we have not had the benefit of a U.N. Security Council Resolution, the United States has worked with friends and allies around the world, including the European Union, Canada, and Australia, to coordinate sanctions actions against the former regime in Burma. In recent days, our friends and allies have lifted and suspended their respective sanctions regime on Burma; the United States, like our friends and allies, agree that steps need to be taken to recognize the changes that have occurred in Burma and encourage further progress. However, we intend to pursue a careful and calibrated approach and will continue close and strong coordination with our partners to ensure continued progress on our remaining concerns.

CONCLUSION

The Department of the Treasury will continue to use a balanced regime of relaxing and continuing sanctions where appropriate to incentivize the Burmese Government down the road of political reform and toward a more free and prosperous Burma. As the Burmese people determine their way forward and embrace the opportunity for democratic representation, Treasury stands ready to work with our colleagues across the administration to assist them.

Senator WEBB. Thank you. Thank all of you.

A vote has been called. Senator Inhofe would like to ask a question. I'm going to go ahead and yield to him. I'm going to stay here through the vote.

Senator INHOFE. Yes. Mr. Szubin—first of all, I'm sorry I wasn't here on time. We're having a lot of conflicts today.

On the sanctions you're describing there, it's my understanding—has the EU lifted sanctions?

Mr. SZUBIN. Yes, they have suspended sanctions in greater measure—

Senator INHOFE. The EU has suspended all of them?

Mr. SZUBIN. With the exception of an arms export ban.

Senator INHOFE. OK. And we are now talking about lifting some sanctions.

Mr. SZUBIN. That's right.

Senator INHOFE. But we don't know what ones. You're not here today to talk about what is going to be the recommendation of the State Department in terms of what sanctions should be lifted?

Mr. SZUBIN. That's right. We are currently discussing those steps within the administration very actively, with an aim toward charting and continuing the course that Principal Deputy Assistant Secretary Yun—

Senator INHOFE. I've heard some authentic rumors, I don't think so—but some pretty good reports that they feel that we may be lifting sanctions, but not sanctions on oil and gas. Mr. Szubin, is that wrong or can you tell me where on your priority list of lifting sanctions oil and gas would be placed?

Mr. SZUBIN. At this point I can't comment on specific sectors as to whether sanctions will be eased or not. What I can point back to, Mr. Senator, is the principles that animate these discussions within the administration.

Senator INHOFE. OK, that's fine. But let's stop and realize and think about this. Sanctions are there to punish. They're there because you've been a bad boy and we're going to have sanctions on you, right?

Mr. SZUBIN. They're there to influence behavior.

Senator INHOFE. Yes, I understand. Now, if you were to come up and decide you were going to lift sanctions and not lift oil and gas, and yet the EU and other countries have lifted it, it doesn't punish

them at all because they will merely do it, but do it with other countries than the United States. Isn't that correct?

Mr. SZUBIN. That's an argument that's made against sanctions at any time when they're not global. I would note that the sanctions against Burma that have been retained have never been global. The U.N. Security Council has not authorized sanctions.

Senator INHOFE. OK, I'm not communicating. Someone's going to be punished by—assume that you were lifting all sanctions except oil and gas. Make that assumption. If that happens, they're not punished, we are.

Isn't that correct? They're going to go ahead and do their exploring, do their drilling, and reap all the profits. It will just be with someone other than the United States.

Mr. SZUBIN. As I said, Senator, at the time of the Burmese crack-down I heard those same arguments being made, that the Chinese were exploring Burmese oil and gas sectors and we were the ones who were punishing ourselves. Obviously, there's an aspect to that with sanctions. We are restricting the opportunities for U.S. businesses any time we impose sanctions. At the same time, there are other principles that we're vindicating in imposing those sanctions, and we believe, given the unique skills and talents and resources that U.S. businesses bring to bear, there is a real impact when we say to a country: You will not have the benefit of U.S. firms participating.

Senator INHOFE. That's true in a lot of businesses. It isn't true in drilling because all countries do this. This is something that we're not going to do any differently than any of the other countries who previously had sanctions on them or didn't have them at all. I just can't see the logic in saying we're going to leave sanctions on oil and gas, when they're going to continue to develop their oil and gas, but with somebody else.

Now, it may not be true in some other businesses and industry where we have a unique ability to do something other countries can't do. It's not true in oil and gas.

Mr. SZUBIN. Please don't take me to be saying that that is indeed the direction.

Senator INHOFE. Well, if it comes I just want to make sure we've got it on the record that it's another thing that we shouldn't be doing. That's all.

Mr. SZUBIN. Thank you.

Senator WEBB. Thank you, Senator Inhofe.

I am probably going to miss this vote unless I am needed on the floor. I want to keep this hearing going. I'm never going to be Cal Ripken anyway in terms of consecutive votes, so I guess if I'm going to miss one this is a good reason to be missing it.

Let me first of all start by saying, Director Szubin, I'm not here to debate whether or not sanctions are a good idea. We have a lot of different opinions about that, and I think that anyone who's going to have that debate should be able to honestly discuss the changes in policy in China and Vietnam. I actually was one who opposed the idea of lifting the trade embargo against Vietnam, until the Japanese lifted their trade embargo in 1993, and then I supported it. And, quite frankly, I saw a lot of very positive benefits in doing that.

But that's not really the purpose of the hearing. I held a whole separate hearing at one point on sort of the situational ethics of American foreign policy, where do we find consistent standards when we start applying these sorts of policies.

What I'm really interested in today, particularly from the three of you, which is why I asked that we have the three of you in a panel, is to give us some context here in two areas. First, I would be interested in knowing a comparison of the EU sanctions that were just lifted and what it took there compared to what it takes here, but what the areas are. I assume it's all of their trade areas. I understand this is a suspension, but what is the difference in their sanctions versus ours?

The second question that I would have—and I think the three of you are uniquely qualified to answer it—is what exactly are the processes that we would go through, assuming that we were to lift a number of these sanctions? How many of them are capable of being lifted through the executive process and which ones specifically require further legislation? Secretary Yun, if you could begin and open us on that. But all three of you; I'm very interested in seeing if we can't sort this out on the record.

Mr. YUN. Thank you very much, Mr. Chairman. I do want to emphasize one thing, which is as we continue to deliberate and form how we should stand vis-a-vis the changes that are going on there, we will consult broadly, and we have consulted with you and we will continue to consult with you.

As Director Szubin mentioned, really we have decided to ease sanctions. We have not come to conclusions on the steps we need to take.

Senator WEBB. I understand that. But my question is, If this process were to move forward, which portion of it is doable through decisions by the executive branch and which elements would require further legislation? We have a very complex series of policies with respect to this country that I don't think we've had with very many others. So that's really what I would like to hear about. I understand the administration's present policy.

Mr. YUN. May I turn to Director Szubin, who is the real expert on these things.

Mr. SZUBIN. Sure. And yes, Mr. Chairman, it is a complex area of sanctions, with overlapping statutes, as you mentioned, as well as Executive orders. And it does take even an expert—and I wouldn't classify myself as an expert, but it does give one pause in assessing the full framework.

That said, it is as a general matter true that the main categories of sanctions that have been imposed, whether by statute or by Executive order, can be lifted by the executive branch should—either via licenses or via Presidential rescission of Executive orders or issuance of waivers, typically on a national security of the United States waiver threshold.

That's true with respect to the investment ban, which would require a Presidential waiver, but can proceed upon a Presidential waiver. That's true with respect to the import bans that were first issued in the Burmese Freedom and Democracy Act and then expanded in the JADE Act, with a waiver that has been delegated to the Secretary of State. That is true with respect to designated

entities, senior Burmese officials, their cronies and the companies and parastatals that they control that have been subjected to both congressional and executive sanctions.

There is already a waiver process in place that allows for those companies to be effectively delisted or for licenses to be issued to deal with those companies and those individuals upon a determination by the Treasury Department.

Finally, in terms of exports of financial services to Burma, there is no legislative restriction at all. That's purely governed by the Executive orders that the President has put in place pursuant to IEEPA.

Senator WEBB. Just to be clear in our understanding, that conceivably could be done and still separate out the bad actors that you were discussing in your testimony?

Mr. SZUBIN. Yes. And I believe Secretary Clinton even alluded to this in her April 4 statement, that we have designated, which is just term of art for developing an evidentiary record and putting someone's name on the sanctions blacklist, we have designated a number of former leaders from the military regime as well as their cronies, individuals like Steven Law, Tay Za, who have become very rich, often on the backs of the Burmese people, and typically engaging in some grey or illicit activities.

Senator WEBB. Right. So they could be separated out if an Executive decision were made on these other areas you're talking about.

Mr. SZUBIN. That is correct, sir.

Senator WEBB. Secretary Yun, what's the position of the administration on the actions that the EU just took?

Mr. YUN. We have consulted closely with the U.N. We understand that they have moved to suspend the sanctions, all but the arms trade. Clearly, they are their own boss, but we have been consulting closely. We believe, given the developments that have gone on, the political openings, economic openings, those were the paramount concern of the EU. They made a number of visits. So I think it's fair to say they had their reasons, as we do ours.

Senator WEBB. So there's no—I'm not trying to put words in your mouth, but there's no particular resistance or criticism from the administration for the action that was just taken?

Mr. YUN. No; we have not criticized, nor have we made any comments on them, yes, sir.

Senator WEBB. Administrator Biswal, one of the comments that I heard from President Thein Sein when I met with him was an eagerness to learn more about democratic systems. My impression was this is not the situation you would have in many of these other historic evolutions, where you have the desire of the people on top simply to perpetuate a system of the past, although there are concerns in that area clearly from people who have had reservations about the changes that have been made.

But the question really is, Are we exploring ways to teach or assist in the understanding of democratic processes across the board, even with the ruling party?

Ms. BISWAL. Thank you, Senator Webb. I had the opportunity to travel to Burma just a few weeks ago and to meet with people in all levels of government, in the executive branch as well as in the Parliament. And I also came away with not only the desire, but

also the awareness of the lack of capacity to enact the type of reforms that they are seeking to enact.

So we are exploring a number of different possibilities. One is as we look toward the 2015 elections it's clear that we are going to need to work with the government and Parliament. The international community writ large will need to work with institutions inside government and outside government to build knowledge, understanding, and capacity of democratic practices. We are looking at programs, including strengthening the Parliament. In our meetings with Thuya Shwe Mann, the Speaker of the Lower House, as well as with the Speaker of the Upper House, there was a great desire to build the capacity of Parliament to act as an effective check on the Executive.

In many of the ministries where we met, there was a desire to build their technical capacity as well as their management systems and capacity. Then in civil society as well, we see a desire to create more formal management structures and capacity. It's a very resilient civil society, but still a very informal one out of necessity. So we're exploring all of those opportunities.

I think that the needs are vast and the challenge for us is how to prioritize and sequence our engagement for maximum impact.

Senator WEBB. Thank you very much. I couldn't agree with you more. I think that we are pretty good at working with opposition groups, as well we should be, in many parts of the world in order to help create a better understanding of democratic systems. I think this is a fairly unusual situation here, where we do at least at the moment have the opportunity to work with the governing systems in this area as well. I would hope you would continue to do that.

I'm going to have to end the panel at this point in the interest of time. I appreciate all of your testimony and we will leave the committee hearing record open until—I was going to say close of business tomorrow. We may not be in session tomorrow. But if not close of business tomorrow, then the end of the close of business of the first day that we are back in session.

Thank you all again for your testimony.

We'll now hear from the second panel. I'd like to welcome three distinguished experts on Burma and on Southeast Asia: Mr. David Steinberg is a specialist on Burma, the Korean Peninsula, Southeast Asia, and U.S. policy in Asia. He's the distinguished professor of Asian Studies at Georgetown University. He was previously a representative of the Asia Foundation in Korea, Hong Kong, Burma, and Washington, DC. As a member of the Senior Foreign Service, he also served as Director for Technical Assistance in Asia and the Middle East for USAID and Director for Philippines, Thailand, and Burma Affairs.

Dr. Karl Jackson is the distinguished professor of Southeast Asian Studies at the School for Advanced International Studies at Johns Hopkins University. He's a former professor of political science at the University of California-Berkeley and adviser to the World Bank, International Finance Corporation; additionally, served as National Security Adviser to the Vice President, senior director for Asia at the National Security Council during the

George H.W. Bush administration, was Deputy Assistant Secretary of Defense for East Asia during the Reagan administration.

Mr. Peter Manikas is a senior associate and regional director for Asia Programs at the National Democratic Institute. Previously he served as the Institute's chief of party in Bangladesh, Cambodia, Indonesia, and Malawi. He has been involved in NDI's democratic development work in more than 30 countries since 1988. Earlier this month he participated in observing Burma's parliamentary by-elections as one of two nongovernmental U.S. observers. Mr. Manikas is a lawyer and member of the Illinois bar.

Gentlemen, welcome. Thank you for coming to testify today. Mr. Steinberg, let's begin with you. Thank you very much for being here.

STATEMENT OF DAVID STEINBERG, PH.D., DISTINGUISHED PROFESSOR, SCHOOL OF FOREIGN SERVICE, GEORGETOWN UNIVERSITY, WASHINGTON, DC

Mr. STEINBERG. Thank you very much, sir. I'm honored to be here. I'd like to second Secretary Yun's comments on your leadership. This has been very important. I'll summarize my report.

The reforms I believe are real. They are unlikely to be rescinded in their entirety, but they are, however, fragile. There's internal opposition both against them or against the speed, and one of the problems is a lack of capacity, not to articulate the reforms, but to implement them.

There are external problems as well. Potential changes, if they don't occur in donor policies, will show that the reforms have not produced the desired effect, and if donors attempt to take credit for the reforms. That is very important. These are Burmese reforms and they must be seen that way.

There is in Washington now an intensive campaign against reducing sanctions based on the fact or the assessment that the government is insincere and that we should await comprehensive reforms in a variety of fields. I disagree with both of these and will talk about that in my report.

Initiating change in Myanmar is difficult under this administration because policy must be put into law and it must be implemented without the taut military system, command system, that existed previously. Minority issues are the most important problem facing the country. It's been the most important problem since independence. We are beginning to see some positive effects in the Karen area, but much more needs to be done, obviously.

I believe U.S. policy should concentrate on pluralism, civil society, local legislatures, and the development of nongovernmental resources inside the country. China is exceedingly important in this relationship. The Chinese have a comprehensive strategic cooperative relationship, partnership with Burma, but the Chinese trust Myanmar less because of the Myitsone Dam construction stoppage. China views the United States policy as part of the containment of China, but there are avenues of cooperation with China to avoid what China really worries about, which is a bloody people's revolution like 1988, which would destroy their position, or insurrections on the Chinese frontier that would destroy their infrastructure.

I have a set of recommendations that I will quickly read. I hope that the United States can speed the confirmation of a resident ambassador and nominate an appropriate and knowledgeable person to take his place as the ambassadorial coordinator.

I would like to see the official use of "Myanmar" as the name of the state, and I think Aung San Suu Kyi will be basically put in that position when she is in the legislature.

We should develop a timetable for the quid pro quo relief from sanctions as reforms in Burma continue to be implemented, while providing immediate changes in banking and certain labor-intensive industry regulations.

We should begin dialogue with the Chinese on collaborative efforts to provide economic assistance and to assist in ameliorating minority problems along the Chinese periphery.

We should be supporting indigenous civil society organizations and delegating to the U.S. Embassy in-country the authority to use U.S. official assistance directly to state-sponsored or supported institutions if and when local conditions justify that action. It should be a local decision, not a Washington decision.

We should encourage U.S. and ASEAN institutions to engage in extensive capacity-building across a broad spectrum of society needs, encourage the growth of autonomous, intellectually respectable institutions of higher education and learning, provide educational materials, encourage U.S. private sector and nonprofit institutions to consider support to both resident and nonresident teacher consultants to assist the Burmese in this process, support the development of appropriate concepts of law, legal institutions, and associations, and an independent judiciary, as the Burmese Constitution stipulates, but which is unlikely at the moment.

We should work with the Burmese Government on plans for the reintroduction of nonlethal IMET training; and we should help on the environmental issues.

I would like to say one thing on the sanctions issue, that sanctions are a tactic and the tactic under the both Clinton administration and the Bush administrations was regime change, and that was not going to happen. Under the Obama administration, sanctions have been an element in reform and I believe that is an appropriate policy for sanctions if you're going to have sanctions. But I would like to see a time limit set on this.

Thank you, sir.

[The prepared statement of Mr. Steinberg follows:]

PREPARED STATEMENT OF DAVID I. STEINBERG

I am honored to have been asked to testify before this subcommittee on issues related to Burma/Myanmar. I will use the term Myanmar, rather than Burma, in reference to events since 1989 when the country's military rulers changed the name of the state. I do so without political connotation, as virtually all states have used Myanmar except the United States. I expect that will change in due course. It took some two decades for the United States to call the capital of China Beijing rather than Peking.

I would like to comment on the reforms and changes that have taken place in Myanmar under the new administration that came into power in March 2011. It is most appropriate near its first anniversary to assess the prospects for progress in that country, and possible responses from the international community, and more specifically from the United States, and to consider the U.S. national interests in Myanmar.

Since the remarkably open and self-critical inaugural speech of President Thein Sein on March 30, 2011, both foreign observers and Burmese have been astonished by the breadth, scope, and speed of the reforms articulated by the President. Although many foreign observers called the elections that brought him and his government to power a “sham,” which they were not, or “deeply flawed,” which indeed they were by any objective international measure, so comprehensive have been the positive changes both articulated and instituted that the world has generally recognized that this is not simply a repeat of the maladministration of the past half-century of direct and indirect military rule. Rather, these changes are the most important chance since 1962 for Burmese society to redeem its lost social and developmental promise. The public recognition of the dire state of the state was the first step toward comprehensive reforms that have been needed since the military coup of that year.

Yet external critics of the military junta have engaged in an obvious and intensive campaign in Washington from denigrating the reforms to encouraging the slowing of the process of modification or elimination of sanctions. They variously attributed the articulated, planned reforms of President Thein Sein as an insincere, superficial, and cynical attempt to placate foreigners to win approval for Myanmar to chair the ASEAN summit in 2014, and to eliminate the rigorous sanctions regimen imposed, most severely, by the United States. Although the present government is an outgrowth of the military, which had ruled the country since 1988, and although its abuses are well documented, I believe this conclusion is both simplistic and wrong. Some adherents of this persuasion have called for continuing the U.S.-imposed and sequenced sanctions until a change in government occurs and/or comprehensive reforms in all fields have been achieved.

There are two inaccuracies in this approach. First, serially introduced sanctions (1988, 1997, 2003, 2008) are not an end: they are simply a tactic to achieve the changes in policies or actions objectionable to the United States. During the administrations of Presidents Clinton and Bush, that goal was regime change—honoring the results of the May 1990 elections that were swept by the opposition National League for Democracy (NLD). The Department of State reports to the Congress during that period repeatedly called for recognition of the NLD’s right to rule, even though the elections were for a new constitutional convention, not a government. In effect, the U.S. position to the junta was: get out of power and then we will talk to you. This was, I submit, patently absurd. President Obama changed that policy to call for reforms rather than regime change and this created a new and positive dynamic to the bilateral relationship to which the Burmese responded. That policy—pragmatic engagement—recognized the internal U.S. political need to continue sanctions but to engage in high-level dialogue. That policy has proven to be positive.

The second problem, that of awaiting comprehensive reforms in all fields in which the United States has especial interests (including but not limited to human rights, labor, religion, child soldiers, trafficking, minority problems, censorship, rule of law, constitutional changes, etc.), is that reform is a never-completed process, for as progress is made in one or several fields, there is always more to be done. The United States has significant experience in that arena. So awaiting the resolution of all issues in all areas of concern is a surrogate for continuing in perpetuity the sanctions in some form and to some degree. Rather, the easing of some sanctions is more likely to be a spur to progress, rather than an impediment to positive changes in that society. In spite of NLD claims that broad sanctions have not hurt the Burmese peoples, this is patently inaccurate. “Targeted sanctions” are also likely to be ineffective in promoting change in that society.

The scope of the planned and implemented changes in Myanmar is remarkable, comprehensive, and encompasses major elements of that society. A cease-fire with the Karen, the longest rebellion in the modern world beginning in 1949, has been achieved. Political prisoners have been released, and any remaining number (variously calculated and in dispute) incarcerated is under review. By-elections have been held on April 1, 2012, swept by the NLD, conclusively illustrating that they were free and fair. Aung San Suu Kyi and her colleagues can take their seats in Parliament. A liberalized labor law has been enacted. Censorship has been vastly reduced. Currency reform has started and other economic changes, including a new foreign investment law, are in process. Construction on a major Chinese dam has been stopped because of popular antipathy. The President is committed to better health and education with increased budgets for those fields. He is concerned over better minority relations—peace not simply cease-fires, which are but the first steps in that process. Aung San Suu Kyi has publicly indicated that she believes that President Thein Sein is sincere in his desire for positive change.

Institutionalizing these planned changes, however, is more difficult under the new governmental system than under the previous junta. By ruling by decree under a

military command system, the junta could institute its will by fiat. Policy became fact—for better or worse. Now, this new government must first articulate proposed policies, then translate them into laws and pass them in the government-controlled legislature but with significant debate, and finally implement them without the same degree of authoritarian control that previously existed. We have seen that in the Kachin State, for example, centrally mandated cease-fire policies are not easily or smoothly transformed into action: the center under the new government will have more difficulty in controlling the periphery. However much the new government is the product of the previous military regime, differences between both are already apparent.

Is such broad progress irreversible? There are conflicting views. It is highly unlikely that the changes could be comprehensively rescinded without major popular unrest. But there are two aspects of possible regression: internal issues and foreign responses. Internally, there are obviously those within the old regime who still have considerable power and who are against change or want change to proceed slowly. Some in society will lose their privileged positions, access, and economic opportunities, and will be concerned. If those close to the previous military regime see the government's reform efforts falter, or if reforms come too quickly to be ingested, or are badly implemented, or indeed if they are not implemented at all, then retrogression is possible. Internal momentum thus must be maintained at a pace consistent with capacity if internal receptivity is to continue, and the people must begin to feel that reforms are having a positive impact, or have the potential to improve their lives.

External impacts on the reforms must be deftly undertaken. The administration wants results from the reforms, ranging from practical economic benefits in trade and investment that the relief from sanctions would bring, to a more balanced foreign policy, increased international political legitimacy, respectability for the military's role in society, and indeed recognition of their patriotic concerns over the well-being of the people. If the response from the outside community is inadequate, and importantly the United States is the central actor in this drama because of its power and past negative role, then Burmese who have been against reforms could claim that these changes were unsuccessful, and the old, authoritarian ways were better. If, on the other hand, the United States or other foreigners were to claim credit for the reforms and they were seen to be instituted under foreign auspices and serve international—rather than Burmese—needs, then a negative nationalistic reaction could set in.

To date, the U.S. response to the new government has been appropriate and successful. The U.S. executive branch's measured engagement and congressional sensitivities are understood at the Burmese Cabinet level. They know that resolution of the sanctions issues is both legally complex and politically charged, and is likely to be a lengthy process. Progress has already been made, and the Burmese recognize these changes. Although realizing that some forms of sanctions are likely to continue for some time, key economic advisors to the Burmese President have called for modification of the sanctions that would have a positive impact on the Burmese antipoverty program. They call for the removal from the sanctions of certain types of labor-intensive industries, especially those employing women, that would provide jobs, and the lifting of the prohibition of the use of U.S. banking facilities, as this increases the problem of Burmese competitiveness on the world's markets. Such changes would have both positive social and economic effects.

United States public diplomacy toward Myanmar has been composed of a single strand—human rights and democracy, when normally the United States has multiple concerns in any country. That policy has been influenced by Aung San Suu Kyi, or what the United States, or her followers, believed to be her views. I have regarded reliance on any single foreigner, no matter how illustrious or benign, in any country as the primary influence on U.S. policy toward that country as inherently unsound. Now, Aung San Suu Kyi is in government and a member of the legal opposition. She will have the freedom to articulate her views and they will be reported in the Burmese media. As she, and the U.K. Prime Minister, have called for the suspension of sanctions (“suspension” is a political euphemism and more acceptable than “removal,” but their meaning in this context is the same because sanctions could be reimposed at any time), there is a clear path to move ahead on their gradual elimination in the interests of the Burmese people.

If these changes are not superficial or insincere, as I have tried to illustrate above, then will they bring democracy as understood in the West and the United States? Certainly not in the near term. The military have designed a system where their control will remain over policies they regard as essential to the state and their interests. They have explicitly done so in the 2008 constitution that includes 25 percent Active-Duty military in the legislatures at all levels, and in various other provi-

sions. Their interests include military autonomy from civilian control, the unity of the state, and the importance of their interpretation of national sovereignty. Even under a market-oriented economy, which they espouse, and greatly enhanced foreign investment, the military's economic interests are highly important and influential though military-owned conglomerates that are not part of the public sector. Even so, built into the military-mandated 2008 constitution are elements of pluralism that need fostering both from internal and external sources. Even under such a system, there is ample room for improvement in social and economic factors.

The most immediate problem facing the new administration is also the oldest since Burmese independence in 1948, and has been the essential issue facing the state since that time. That is, the balance between the power and resources of the central government, dominated by the ethnic Burman majority, and the diverse minority peoples who comprise about one-third of the population but who occupy a far greater proportion of the land base containing much of the natural resource wealth of the state. Majority-minority relations have been the primary problem of the country since 1948; no civilian or military government has resolved them, with the military regimes exacerbating the issue. Every major ethnic group has had a significant element of its population in revolt at some time, and in spite of 17 official cease-fires, peace where it exists is still fragile.

Some minorities half a century ago wanted independence, but now will settle for some sort of federal structure, but federalism is anathema to the military who have argued for 50 years that it is the first step toward secession. The problem is exacerbated because all neighboring states (except Laos), and the U.K. and the United States, have supported rebellions or dissidents across borders that are ethnically porous. The solution to minority issues is urgent, but the credibility of all foreign powers in assisting resolution, given past history, is questioned by the central government. Yet devolution of more authority and revenues, and increased cultural respect of the minorities and languages and cultures, beyond the appropriate rhetoric of the constitution, is required if a long-term resolution is to be found. It should also be remembered that the NLD is a Burman party, and although it had called for a federal structure, it has only limited influence in minority regions.

One major challenge to continuing reform is the lack of an adequate capacity in almost any field. This is the result of isolation both political and intellectual, and the effective collapse of standards in an education system that was once the pride of the region. Capacity-building is essential in any field, including the modern international training of teachers both in country and abroad, especially in the ASEAN region. As this process continues and as foreign public and private assistance flows in, experience in other states has shown there is likely to be intense competition for these capable individuals to the detriment of coordinated foreign assistance.

This paucity of capacity is exacerbated by the weakness of institutions aside from that of the military itself. This is both a product of past military attempts to consolidate power by weakening institutions and organizations not under their control, but it is also an aspect of the personalization of power in Burmese society, where loyalty has been to individuals and not to institutions. The building of pluralistic institutions, public and private, is an important element of change and growth.

Although U.S. policy has consistently focused on democracy building, a preliminary stage toward that goal would be to concentrate on the building such pluralism, and the movement from a unitary state to a more complex system—one that is locally responsive to local needs. The potential institutions for this change are built into the new constitution: the state, regional, and minority legislatures at local levels. Although they may not have been originally conceived a serving this role, the potential is there. The strengthening of all legislatures at central and local levels could be an important focus of foreign assistance.

The regional impact of the Myanmar reforms is highly significant. The European Union will likely drop its sanctions this month. ASEAN certainly regards the changes as strengthening ASEAN as a whole. Thailand has major plans to develop the Dawei (Tavoy) region as an industrial hub, building industries that (as the former Thai Prime Minister noted) could not be constructed in Thailand because of environmental concerns. After China, Thailand is the second-largest investor in Myanmar. Japan, after pressure from the United States to withhold all but humanitarian aid, is prepared to provide major assistance and to forgive Myanmar's massive debt to that country. It has diverse historical and contemporary interests in Myanmar, not the least of which is moderating Chinese penetration and influence. India has important policy objectives, part of which, like Japan, relate to moderating China's domineering role, but also importantly are focused on India's own Northeast region which has been plagued by rebellions. Delhi is working with Naypyitaw to develop a transit route (The Keledan River Multi-Modal Transport Project) to the Northeast through Myanmar's Rakhine and Chin states.

It is China, however, that is critical to Myanmar and important in U.S. relations with that country. In May 2011, China and Myanmar signed a “comprehensive strategic cooperative partnership” agreement. Although China has signed such agreements with other states, this was significantly the first time with Myanmar. Some erroneously thought that Myanmar had become a client state of China. Yet several months later President Thein Sein ordered stoppage on work on a major \$3.6 billion Chinese dam on the Irrawaddy River in a culturally sensitive area in the Kachin State, as he said he listened to popular opinion against it.

Although China has erroneously viewed the changed Obama Myanmar policy as part of a planned containment of Chinese interests in the region, there are important potential avenues of cooperation between the United States and China related to Myanmar. China fears two potential dangers in that country: a people’s uprising like that in 1988, or minority warfare near the Chinese frontier that could jeopardize Chinese infrastructure projects in those regions.

China officially welcomes the U.S. improvement of relations with Myanmar, as long as that influence does not threaten Chinese national interests, which are important in Myanmar, which has been built into major Chinese economic planning. China recognizes that the best antidote to civil unrest in Myanmar is broad-based development that only the West can help bring, so there are potential avenues for cooperation there. The United States and China could also collaborate on assisting the process of reconciliation with the minorities on the border with China. Such cooperation would serve Chinese interests, improve the lives of the minority peoples in those areas, and open those areas to U.S. and international business as well. Although suspicions abound in Myanmar on U.S.-China relations, this need not be the case. The United States would have to recognize Chinese national interests in its oil and gas pipelines and in environmentally and socially sound hydroelectric projects, while China would have to understand the U.S. concerns for a stable and prosperous Myanmar in light of the U.S. alliance with Thailand and the burgeoning relationship with India.

The United States needs to continue its engagement with Myanmar by responding to positive plans there with supportive policies and actions designed to improve the condition of the Burmese peoples, which is in the national interests of the United States.

United States has a national interest in the development of a stable, prosperous, cohesive yet pluralistic Myanmar with a responsible and balanced foreign policy.

In summary, U.S. interests in Myanmar would be served by the following actions:

- Speeding the Senate confirmation of Derek Mitchell as resident Ambassador in Myanmar. His work as ambassadorial coordinator has been exemplary.
- Nominating an appropriate, knowledgeable person to take his place as the regional coordinator on Myanmar policy to supplement the internal U.S. ambassadorial role.
- Officially using Myanmar as the name of the state.
- Developing a timetable for quid pro quo relief from sanctions as reforms in Myanmar continue to be implemented while providing immediate changes in banking and in certain labor-intensive industry regulations.
- Beginning dialogue with the Chinese on collaborative efforts to provide economic assistance and to assist in ameliorating minority problems along the Chinese periphery.
- Supporting reputable indigenous civil society organizations and delegating to the U.S. Embassy in country the authority to use U.S. official assistance directly to state-sponsored or supported institutions if and when local conditions justify such action.
- Encouraging U.S. and ASEAN institutions to engage in extensive capacity-building across a broad spectrum of society’s needs.
- Encouraging the growth of autonomous, intellectually respectable institutions of higher education and learning.
- Provision of educational materials that would support both internal capacity-building and higher education.
- Encouraging the U.S. private, educational, and no-profit institutions to consider support to both resident and nonresident teachers/consultants to assist the Burmese in these processes.
- Supporting the development of appropriate concepts of law, legal institutions and associations, and an independent judiciary, as the Burmese Constitution stipulates.
- Working with the Burmese Government on plans for the reintroduction of a non-lethal IMET training.
- Encouragement of the Burmese human rights commission activities.

- Advocacy on analysis and amelioration of environmental needs related to Myanmar's natural resources and economic expansion.

This is a unique moment in U.S. Myanmar relations, and it should not be ignored.

Senator WEBB. Thank you very much.

Mr. Manikas, welcome.

STATEMENT OF PETER MANIKAS, SENIOR ASSOCIATE AND REGIONAL DIRECTOR FOR ASIA PROGRAMS, NATIONAL DEMOCRATIC INSTITUTE, WASHINGTON, DC

Mr. MANIKAS. Thank you very much, Mr. Chairman. It's a pleasure to be here. I look forward to testifying on the recent reform efforts in Burma. I have been involved in Burma for quite some time, but it's been only recently since we've had the opportunity to actually travel there. I've made two trips since January, the latter one being around April 1 as part of a two-member delegation to observe the by-elections.

During both of those trips, though, I found widespread agreement among all the people that I talked to that the recent changes are very significant and that they've led to a significant opening of the political space. At the same time, I think everybody's quite concerned about how far these reforms are going to continue to go and how much more needs to be done to help ensure that democratization continues.

As the nation heads toward elections in 2015, there is not, for example, a level playing field. With 25 percent of the seats in the legislature reserved for the military, opposition parties face a very difficult challenge in garnering a majority. Also, the constitution is unclear on the scope of the civilian government's authority over the military, and the military retains a veto power over constitutional amendments.

In addition, human rights abuses persist, particularly in the border areas, and, while many political prisoners have been conditionally released, others remain in custody.

Mr. Chairman, the recent by-elections provided the first opportunity in more than two decades for the NLD to compete for public office and, while there were several problems in the elections, they marked an important step forward in the reform process.

I was invited by the U.S. Government to view the by-elections along with a colleague from the International Republican Institute, but because of the limitations on our ability to observe every aspect of the electoral process it was not really an international election observer mission that met international standards. However, we were able to see more than we initially expected. Polling officials often invited us into polling stations, despite the lack of legal authority to do so.

There are several election-related issues that I outlined in my written testimony that should be examined, I think, further. These include the lack of a legal authority for nonpartisan election monitors and problems in advance voting. While these issues and others are identified in my written testimony, obviously they didn't affect the outcome of this election, but their impact in 2015 may be magnified in a much more hotly contested political environment.

In addition, there are several reform initiatives being explored or pursued by reformers inside and outside of government that the international community should support.

These include: One, efforts to secure a lasting peace in the ethnic areas. Exploring how other countries in the region, such as Indonesia, have dealt with decentralization in the context of a substantial ethnic diversity might be very helpful in that regard.

Two, reviewing the constitution, especially the imbalance between civilian and military authority.

Three, promoting the rule of law by establishing an independent judiciary.

Four, strengthening the legislative process, which can be an important forum for debating and adopting further reforms.

And five, increasing the capacities of political parties and civil society, which have to modernize and adjust to a more competitive political environment.

Mr. Chairman, the challenge of the international community is how to calibrate a response to the changes that are occurring. That response needs to support the reforms that are taking place and encourage further democratization, while also recognizing that the transition process is a work in progress and that reforms to date must be expanded and sustained.

NDI hopes that the international community will continue its efforts to help reformers in pursuing their goals and fulfilling the aspirations of the Burmese people.

Thank you very much.

[The prepared statement of Mr. Manikas follows:]

PREPARED STATEMENT OF PETER M. MANIKAS

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to speak about recent events in Myanmar and the ongoing efforts of the people of Burma to advance political and economic change. The nation's new openings have led to opportunities for organizations like NDI to travel within the country; and in January I traveled to Yangon and Mandalay with a small NDI team to assess the political environment. Earlier this month I participated as part of a two-member U.S. delegation sent to view the April 1 by-elections.

RECENT DEVELOPMENTS

After decades of military rule and economic stagnation Myanmar is beginning to institute political and economic reforms. In recent months, the country has seen in rapid succession: cease-fire agreements with most of the ethnic groups long at war with the central government; the release of a large number of political prisoners; the easing of restrictions on the media and civil society; amendments to the electoral laws paving the way for the National League for Democracy (NLD) to participate in the political process; and the holding of by-elections in which the NLD won all but one of the constituencies it contested. As a result of the by-elections a new generation of reformers will soon be entering the nation's legislative chambers.¹ The government also has announced an overhaul of its currency system and recently instituted a managed floating exchange rate. In addition, a new foreign investment law has been introduced in Parliament.

The reforms implemented and underway are impressive and should be acknowledged and responded to by the international community. It is equally important, however, to recognize that Burma is at the beginning—not the end—of a reform process and the outcome is not assured. The nation is still grappling with the challenge of transitioning from military rule to a more open political and economic

¹On April 23 the newly elected NLD members of Parliament declined to take their seats because of the requirement that they take an oath "to safeguard the constitution." The oath appears as an appendix to the nation's constitution and the dispute likely foreshadows further contention regarding constitutional issues.

system. The political situation is fragile and much more needs to be done to help ensure that the democratization process continues.

As the nation heads toward national elections in 2015, there is not, for example, a level playing field for the participants in the nation's political process. Since, according to the 2008 constitution, 25 percent of the seats in the national and regional legislatures are reserved for the military, political forces aligned with the military need to secure only one-third of the contested seats to attain a majority in each chamber. Opposition parties, on the other hand, would need to win twice as many elective seats—two-thirds—in order to garner a majority.²

Once elected, the constitution is unclear on the scope of the civilian government's authority over the military. Article 6(f), for instance, states that the defense services are to participate in the national political leadership of the state. Article 20(e) assigns the military the primary responsibility for "safeguarding the nondisintegration of the Union, the nondisintegration of national solidarity and perpetuation of sovereignty."

In addition, while progress has been made in negotiating peace agreements with the nation's ethnic groups, human rights abuses persist, particularly in the border areas. For many who live in remote rural areas, life has not changed. And, while many political prisoners have been conditionally released, others remain in custody. Those that have been released are unsure of their freedom to engage in the political process. Political space has opened for democratic activists, but enforcement of the rights of assembly and expression remains uncertain.

The reform agenda established within government and in the political opposition—requires international engagement and support to help ensure that democratization proceeds.

THE APRIL 1 BY-ELECTIONS

The recent by-elections provided the first opportunity in more than two decades for the NLD to compete for public office and the success of the electoral process was an important step toward political reconciliation. The government's invitation to the international community to view the election, coming just a few days before the elections were to be held, was a positive development, although it fell short of international standards for election observing. The Declaration of Principles for International Election Observation, launched at the United Nations in 2005, for example, establishes fundamental standards for observation missions, including observing the preelection period and deploying a sufficient number for observers to assess an election nationwide. There was no opportunity to observe the campaign period, no legal authority to enter polling stations and no opportunity to view the aggregation of results. At the same time, the invitation for the international community to witness the process was a significant step toward increasing the transparency of the elections and opening Burma to the outside world.

Originally 48 seats were to be contested, but the elections in three constituencies in Kachin state were postponed due to the government's concerns about security. Thus, a total of 45 by-elections were held. These consisted of 37 seats in the lower house (Pyithu Hluttaw); six seats in the upper house (Amyotha Hluttaw); and two seats in the regional Hluttaw. The NLD ultimately fielded 44 candidates and 43 of them were successful.

I was invited by the U.S. Government to view the by-elections, along with a colleague from the International Republican Institute. We constituted the U.S.-based delegation; however the U.S. Embassy as well as other embassies in Yangon deployed their staffs throughout the country as the elections approached. Because of the limitations on our ability to observe every aspect of the electoral process, it is not possible to evaluate the by-elections as a whole. However, we were able to see more than we initially expected and polling officials often invited us into polling stations despite the lack of specific legal authority to do so.

Throughout the day we visited nine polling centers in Naypyitaw and the surrounding area. The management of the polls was quite different from center to center, but in general we saw no election-day intimidation of voters or candidates and, despite some significant shortcomings in administration, most of the polling centers seemed to be staffed by well-intentioned officials. Polling agents from the NLD and Union Solidarity Development Party (USDP) were present at every station we vis-

²For instance, there are 440 seats in the Pyithu Hluttaw, the lower house of the national legislature. Of these, 110 are reserved for the military. The remaining 330 seats are filled through election. For allies of the military, a controlling majority would be obtained by securing 111 elected seats giving them a total of 221 seats (110 reserved plus 111 elected seats). Opponents of the military would need to win 221 of the 330 contested seats (or two-thirds of the contested seats) in order to have a majority.

ited. Either officials invited us into the station or we had an unobstructed view through doorways and windows. At the closing that we witnessed, the count was conducted in the view of the party agents and was reasonably efficient. But still, a lack of transparency was evident. For example, the final vote count that we witnessed did not include an announcement of the results. We had to obtain that from the NLD party agent. Nor were the results visibly posted on or near the polling station. We saw no international or domestic observers in any of the polling centers we visited.

In one polling center—the most rural center that we visited—voters had been given a white slip of paper, provided by the USDP that was designed to enable the prospective voter to find his name on the registration list. This was a common practice in some townships and was used by both parties to assist illiterate voters. At this station, however, the slip of paper also contained an illustration of a voter placing a check mark in the box for the USDP. The slip was given to the officials when the voter went to the registration desk at the polling station and the slip was retained by the election officials. Therefore, the polling station now had a record of that particular voter being linked to the USDP. In the other polling stations where a similar practice occurred, the slip did not link the voter with a party and was not retained by election officials. It is not hard to imagine how this practice could be abused—for example by denying entry to someone who did not have a USDP-provided slip. There were other peculiarities about this polling station. We received the least cordial greeting there; in fact, no one would speak to us. The center was surrounded by a gate and at first we were denied entry, but the entrance later opened for us. Since we could not enter the polling station at this location, we could not talk to the polling agents. Indeed, we could not be sure that agents were present. While this might be an isolated instance, it could be the case that in the most remote rural areas similar practices are followed, beyond the scrutiny of any observer.

We also saw another questionable practice in polling that took place on the grounds of the Ace company. The election officials marked the white slips with a green pen. The voter could later take the white slip to a camp that was set up and receive a free meal. It is not clear if this represents a civic-minded gesture to encourage people to vote or was designed to influence the voter's choice.

There were several issues that should be examined going forward:

- While political party agents could observe the polling, nonpartisan election monitors did not have the legal authority to enter the polling stations; domestic election monitors were deployed on election day, conducted their activities and reported their findings, but were constrained by their lack of legal status as observers;
- There seemed to have been no effort to ensure that those who voted in advance of election day, as permitted by the election law, did not vote twice—once in the days preceding the election and again on election day. There was no inking used on either day and we saw no evidence that voters were crossed off the registration list when they voted early; the advance votes were locked in a cabinet at a township office, guarded by election officials and distributed to the proper polling station on election day. The security of the ballots is highly problematic, particularly because the number of advance votes at some stations could affect the outcome of an election;
- The ballots delivered to each station were exactly equal to the number of registered voters. There was no room for error (though the accuracy of the registration list is dubious);
- There were no serial numbers on the ballots and no apparent way of linking a ballot to a polling station; and
- The lack of inking for the advance vote and on election day poses a potential threat of fraudulent voting.

Obviously, these problems did not affect the outcome of the elections. However, if they persist they could pose more substantial issues in the 2015 electoral contests when much more is at stake and tensions among the political rivals are heightened. The problems identified are not difficult to remedy, but addressing them effectively will require that the Union Election Commission be receptive to reviewing its procedures and drawing on regional and global best practices. The Commission is appointed by the government and its independence is, therefore, suspect. Election reform will undoubtedly be high on the list of priorities for the newly elected members of the national legislature.

THE WAY FORWARD

While the April 1 by-elections and the reforms that preceded them were significant and important steps, reformers inside and outside of government will undoubtedly be debating an ambitious reform agenda, which includes:

1. *Addressing the Ethnic Conflicts.* While cease-fire agreements are in place with almost all of the ethnic groups, this 60-year-old problem persists, threatening the stability of the country and jeopardizing democratization efforts; cease-fire agreements will have to become peace agreements and they will likely be ultimately debated in Parliament.

2. *Constitutional Development.* Aung San Suu Kyi has identified the need to address the constitutional imbalance between civil and military authority, such as removing the reserved military seats from the constitution, as a top priority. Some reformers in government have acknowledged that addressing this and other constitutional concerns will be needed to achieve national reconciliation. Reformers have indicated an interest in Indonesia, which also reserved temporarily military presence in the Parliament, as a model for constitutional development in this area. Federalism and other means for decentralizing power to help resolve ethnic conflicts will likely be discussed in the context of constitutional change.

3. *Electoral Reform.* There is a growing recognition that steps must be taken to remedy shortcomings in election administration, including securing the independence of the Union Election Commission. This will become increasingly important for enhancing public confidence in the electoral process as the 2015 elections approach.

4. *Establishing the Rule of Law.* An independent judiciary is needed to protect the rights of those participating in the political process and ensure the equal application of the laws.

5. *Strengthening the Legislative Process.* Shwe Mann, the speaker of the Lower House of Parliament, has indicated that he is receptive to assistance in modernizing Parliament so that it can address more effectively the problems of corruption and economic development. Parliament will face new challenges as it adapts to a new multiparty political environment where the rights of the opposition will have to be recognized in the country's legislative chambers. The new legislature also faces the challenge of addressing the balance of power between Parliament, the Executive and the military.

6. *Political Party Development.* The nation's political parties are seeking assistance in adjusting to the new political environment. The victory of the NLD may well be a reflection of the overwhelming popularity of Aung San Suu Kyi, rather than the party's institutional strength. The USDP, too, must adjust and modernize to meet the demands of a more competitive political system.

7. *Civil Society Strengthening.* There has been little experience in Myanmar with an active civil society and civil society activists are pressing for reforms so that they can operate within the framework of the law. For example, many civil society groups are operating in the absence of legal registration; they are also seeking assistance to build their capacity to operate, particularly in the area of democratic development, which in the past has not been recognized as a permissible civil society activity.

8. *Media Access.* To establish a level playing field for all of the participants in the political process, access to the media will be essential. There was little coverage of the by-elections in the media and no laws that require equal treatment of the candidates.

9. *Human Rights Monitoring.* Human rights violations continue throughout the country, particularly in the ethnic areas. Monitoring and reporting on the human rights situation can help focus attention on, and raise public awareness of this issue.

10. *Developing a Telecommunications Policy.* Economic and political development depends in part on the ability to connect citizens throughout the country in a cellular network that is affordable and reliable. Currently, no such network exists, though reformers in and out of government have identified this as a pressing need. Such a cellular network would be important for the rapid transfer of information by election observers in the national elections of 2015.

Mr. Chairman, the challenge confronting the international community is in how to calibrate a response to the changes that are occurring. That response needs to support the reforms that are taking place and encourage further democratization, while also recognizing that the transition process is a work in progress and that the reforms to date must be expanded and sustained.

NDI hopes that the international community will continue its efforts to help reformers inside and outside of government in pursuing their goals and fulfilling the aspirations of the Burmese people.

Senator WEBB. Thank you, Mr. Manikas.

Just for your information, I think I'm now missing my second vote. There may soon be a posse out to bring me over to the Senate floor. But we'll continue as long as they allow me to.

Dr. Jackson, welcome.

STATEMENT OF KARL JACKSON, PH.D., C.V. STARR DISTINGUISHED PROFESSOR OF SOUTHEAST ASIA STUDIES, SCHOOL OF ADVANCED INTERNATIONAL STUDIES, JOHNS HOPKINS UNIVERSITY, WASHINGTON, DC

Dr. JACKSON. Thank you. Thank you very much for inviting me to testify. It's a privilege to be back here in the Senate testifying after all these years, and I too would like to reiterate what Joe Yun said in praise of you for conducting these hearings.

I have only really two major points. I've been back and forth to Myanmar now nine times in the last 2½ years. There is a uniformity of opinion within the country, regardless of whether you're talking to released political prisoners, members of the government, or people in the lobby of the hotel, there's a unanimity of opinion that things have changed, there is no going back, and that the military regime is over.

I believe that the time has come to change the way we define our strategy for dealing with Myanmar. I think we need a more active strategy for encouraging democracy and, rather than a reactive strategy, in which we wait for them to make the first move and then we respond, hopefully in kind. I think we have to change our own role definition from that of teacher-disciplinarian to that of a more open-handed partner in the process—the process of trying to move this country, Myanmar, toward democracy.

Now, my second point is whether the reforms survive depends vitally on elite opinion inside Myanmar, more vitally on elite opinion within Myanmar than on anything else. And the subelites that I'm talking about are the military, the bureaucracy, the business elite, and the civil society elite. We should deal actively, actively, with all four of these in order to make sure that all four of these subelites realize that the road to reform is the road to benefit for them, for each of them, for civil society, for the bureaucrats, for the business elite, and for the military elites.

The whole question revolves around the politics of democratic reform's survival. This is not an assured thing at this point in time and our policy should be tailored to trying to make sure that the process of democratization goes on.

I would just list four things. I think we should incentivize each of these four subelites. We should obviously continue to cultivate civil society, not just a single group but across the board, with particular emphasis on activities that lead different parts of Burmese or Myanmar society to deal with one another. In other words, we should encourage civil society groups that involve more than a single ethnic group.

Second, we should lower the transaction costs for Myanmar business persons by decreasing or dropping as many financial sanctions as we possibly can. We should try to open up free access to the American market, especially for Myanmar's small and medium enterprises. We should allow Americans to invest in schools, hos-

pitals, hotels, and SMEs, to generate employment within Myanmar.

We should also supply technical assistance to reforming the bureaucracy. This is a military, top-down model of bureaucracy that frankly the people who operate it don't fully know how to change. I would advocate greater emphasis on rule of law programs, rather than the "ruler's law" programs that have dominated Burma for the last 20 years.

Finally, in order to encourage elements within the military to support the democratic reforms, I think we should open up slots within the U.S. military education system for a limited number of the Myanmar military. In other words, I think we should take "yes" for an answer.

Thank you.

[The prepared statement of Dr. Jackson follows:]

PREPARED STATEMENT OF KARL D. JACKSON

Let me begin by stipulating my answers to several questions that have preoccupied us all over the last several years. We have debated whether any change could take place in Burma. Subsequently we debated whether any real change had transpired. Now we are debating whether enough change has taken place to satisfy us, on the assumption that we will decide the future of Burma. What nine separate trips in a little over 2 years have taught me are: (1) significant changes have already taken place; (2) reforms are real, and although there are certain to be setbacks, the reform trend seems likely to continue; and (3) absent further changes the United States will be playing an increasingly marginal role in a fast-paced drama in which almost all other nations have dropped or suspended sanctions to take advantage of growing opportunities.

U.S. NATIONAL INTERESTS

The questions with which we should be concerned now are:

1. Why should the United States be interested in Myanmar? What long-term U.S. national interests are involved in Myanmar?
2. What can the United States do now to encourage the emergence of a new, more peaceful, friendly, and democratic Myanmar?

In real estate three things determine value: location, location, and location. The same can be said of Myanmar. It is strategically situated below China, between the emerging mega-nations of Asia—India and China. Myanmar has become increasingly reliant on China for weapons, official development assistance, and foreign direct investment. If Myanmar were to become a full-fledged client state of China, this would change the regional strategic balance. To avoid overdependence on any one nation, Myanmar officials over the past year have articulated a more omnidirectional foreign policy that is equally friendly toward ASEAN, China, India, Japan, and the United States. Beneath the surface, even when the relationship with China seemed most intimate, Burmese nationalism and antipathy toward the growing number of Chinese nationals working inside Myanmar motivated the Myanmar elite (including most especially the military elite) to look outward, first to ASEAN and now to the entire outside world (including the United States).

The United States could safely ignore more than 55 million people, living in a resource rich country the size of Texas, located just above the vital Strait of Malacca, as long as Myanmar was consumed by its own internal conflicts and led by a military elite that largely ignored, and was ignored by most of the outside world. As long as the outside world remained more or less uniformly willing to ignore Myanmar, the United States could afford to overlook Myanmar's strategic and economic potential while concentrating almost exclusively on the odious qualities of the Burmese Government. The world has changed. China has risen. The United States has pivoted back to Southeast Asia. Myanmar is now simply more accessible in political and economic terms than it has been for the last 50 years. Will the United States take advantage of the new opportunities or will it miss the boat?

DEVELOPMENTS IN MYANMAR

Domestically driven political developments in Myanmar have created the first real opportunity in 50 years for the outside world to play a supporting role in Myanmar's development. A new constitution is in place (guaranteeing the role of the military), but the first multiparty Parliament since 1962 is passing laws and requiring the government to take notice of its views regarding budgetary allocations. Most political prisoners have been freed, press censorship has been partially relaxed, the government is more responsive to public opinion, and the by-election of April 2012 appears to have been free and fair. Aung San Suu Kyi and President Thein Sein are cooperating with one another, even while Aung San Suu Kyi is rebuilding her party, the National League for Democracy, with an eye toward the election of 2015. A process of democratization is well underway in Myanmar but is far from complete. There is remarkable unanimity of opinion inside Myanmar that the process is real and has gone so far that it would be difficult to reverse.

After having been wracked by 40 insurgencies since the 1940s, the Government of Myanmar has now managed to reach cease-fires with most, but not all, of its armed internal competitors. Exports of natural gas and gems have indicated to the government that it can survive the sanctions regime, but contact with the burgeoning economies around Myanmar have convinced a significant segment of the Myanmar elite to join the race toward a more prosperous modernity. The military remains by far the most powerful sub-elite in the society. The army is not uniformly supportive of the reforms themselves, but as long as President Thein Sein's policies restore Myanmar's respectability, increase domestic prosperity and maintain internal stability, the officer corps remains unlikely to oppose the President's policies overtly as long as the emerging, semidemocratic system does not attempt to take away the military's wealth and privileges.

The economy is expected to expand by more than 5 percent in 2012. Economic reforms are at least as important as political ones. The dual track exchange rate has been abolished and replaced with a managed float on April 1, 2012. Privatization under the prior government benefited individuals who were well connected, but under President Thein Sein the "cronies" are less favored, and even the cronies are adapting to the changed political situation. A new foreign investment law was drafted in March 2012, allowing joint ventures as well as 100 percent foreign ownership, and granting protection against nationalization. With 80 percent of the world's teak supply, 90 percent of its rubies, and the 10th-largest natural gas reserves in the world, the economy seems poised for sustained growth if it can gain full access to trade. The negative impact of sanctions fell most heavily on those producing items that could not be readily smuggled. For example, textile production initially fell by 30 percent and resulted in significant layoffs of textile workers.

Over the past year the price of hotel rooms in Yangon has increased by 50 percent, and the hotels are filled with Chinese, European, Japanese, and Korean tourists, businesspersons, aid officials, and foundation representatives, all of whom sense that there will be attractive opportunities in Myanmar in a matter of weeks or months rather than years or decades. Only Americans are conspicuous by their relative absence. If Myanmar can maintain its current economic growth rate for several decades and create significant infrastructure connecting itself by road, rail, and pipeline to China and to Thailand, Myanmar will become a land bridge between India, China, and the rest of peninsular Southeast Asia and increased its strategic importance even before its GDP/capita catches up with its economic potential.

HUMAN RESOURCE LIMITATIONS

Myanmar, like Indonesia under the early New Order and Vietnam after the initiation of its reforms, seems to be "getting the policies right," and this should generate significant increases in wealth. There are two very real limiting factors: lack of capacity in government and the absence of a modern university system. Since 1962, top down, military style government predominated. Almost all decisions were pushed up to the very top because of pervasive fears that initiative would result in dismissal. Rule by decree rather than laws governed outcomes. The judiciary disintegrated and the law schools were closed. As a very-well informed Myanmar interlocutor remarked, "Judicial reform must start from scratch. The members of Parliament cannot draft laws because there are very few trained lawyers to advise them." A bevy of changes are needed to economic rules and regulations but there is almost a complete lack of persons who know how to write them. As one of the most important advisors to President Thein Sein said to me, "We know we need to change, but we do not know what we need to change or how to change it." International expertise, especially in the form of resident advisors, is desperately needed in the short run to prevent the economic momentum from being lost.

University education (once the strongest in Southeast Asia) has been decimated by five decades of military rule and starved of resources during 60 years of civil strife. The antigovernment movement was repeatedly led by university students and the military reciprocated by closing the universities for long periods of time and dispersing undergraduate students permanently from the main campuses. Rangoon University, once the finest in Southeast Asia, now consists of a large, decayed, empty campus. Weeds grow everywhere among the closed and crumbling buildings and constitute a metaphor for the country's intellectual capacity. Expenditures have been so low that books, rudimentary equipment for laboratories, IT facilities, and internationally trained faculty are simply absent. In the health sector, the hospitals and medical schools are short of almost everything from decent beds to sufficiently trained staff, from access to the Internet to sustainable standards of excellence. Virtually no ambulance services exist (even in Yangon) and there are very high death rates from accidents because of the poverty of emergency room care and procedures. Appropriately focused technical assistance could have very substantial impact on the lives of ordinary people who are not to blame for past bad government.

THE FUTURE OF MYANMAR

Transitional democracies have often failed in spite of the world's best wishes. Good will is not a substitute for good policy, and tactics are not a substitute for strategy. What we are witnessing in Myanmar is an attempt at top-down transition to democracy. Because of our past sanctions policies and our inability to unravel them rapidly, we are probably going to be unable to play a leadership role in seizing the best chance democracy has ever had in Burma. The administration cannot move as fast as it would like because it feels that Congress wants to go slowly, but going slowly may result in the missing the moment for reform.

Everyone wants the reforms to succeed and for Myanmar to become a fully democratic and prosperous nation in the shortest possible time period. The problem is top-down transformations are prone to failure. The task of evolving from rule by a narrow military elite to more open forms of government is inherently difficult and requires exceptional leadership throughout the society as well as favorable external circumstances.

There are at least five factors that must be present for a successful top-down transition to democracy.

1. *A middle level of strength and confidence within the government.* Governments that are too strong, don't reform, and governments that are too weak can't reform. Reforms can be strangled from within by those who had most of the power and derived most of the benefits from the old way of doing things. Successful reform requires that a growing proportion of the old powerholders become sufficiently confident and willing to share increasing portions of the wealth and privileges with wider groups in return for the prospect of a more rapidly growing, distinctly richer, more peaceful and more respected society. The proportion of established and emerging elites who have confidence that reforms can bring about a win-win situation must increase with time in order to sustain the reform movement. In Myanmar, holding the U.S. sanctions in place will make it more difficult to increase the proportion of military officers actively supporting democratic reform. Small things, such as allowing access by the Myanmar military to the U.S. military education system, might increase support for democratic reform.

2. *An ability to deliver.* Political evolution can fail because the benefits of reform take too long to arrive. Failed policies can kill political evolution whereas successes can supply the political space allowing the reform process to continue to unfold gradually. Early successes in economic and social policies create the political oxygen for subsequent political evolution. Regimes that improve schools, medical care, and economic livelihoods often buy time for the private sector to deliver increases in overall general welfare (see Asia over the last 40 years). Increased delivery of government services, in combination with private sector job creation, can increase the legitimacy of newly minted democratic institutions. Broad sanctions against investment and constrained access to technical assistance from international institutions (such as the World Bank and the International Finance Corporation) will make it more difficult for President Thein Sein (perhaps in collaboration with Aung San Suu Kyi) to improve hospitals and schools and to increase employment among those most hurt by the sanctions. Allowing targeted investment in schools, hospitals, and employment-producing industries such as tourism and small and medium enterprises would enhance the prospects for success and improve the lives of people in the bottom half of the social structure. Unless economic success arrives in time, the political reformers may be chased from power.

3. *Institution building.* Political transitions can only succeed if, at the elite level, there is a generalized acceptance of new and permanent “rules of the game.” Successful transition from elitist to more popular forms of government require acceptance of the norm that power can be shared and that at some stage the ruling elite may be peacefully replaced by a new government. For this to become possible, those who are in power must become confident that if they lose direct control of the government their lives and property will continue to be safe. Confidence comes from the rules established to protect and regulate rights. In Myanmar this will take time and will require the establishment of a legal framework as well as the creation from scratch of a judiciary that is willing to constrain any arbitrary exercise of power. Encouraging the rule of law, through aid to judicial reform, could play a vital role in establishing firm “rules of the game” for elites and counterelites alike. Helping Myanmar to redevelop its law schools and judicial system should be among the highest priorities of the U.S. Government rather than being prohibited by sanctions against bilateral assistance to the Government of Myanmar. Under just-issued modifications by the U.S. Treasury this assistance may become possible but only through nongovernmental organizations in a country where there are, as yet, no private universities. A tsunami of foreign investment in a country without an adequate legal framework will create a widespread culture of corruption and/or enhance the importance of a select number of crony capitalists who can provide political protection for the foreign investor. It is much less costly for all concerned if early foreign assistance can help Myanmar to get the regulations right initially before large veto groups have become established within the evolving political system.

4. *A patient populace.* Without a patient populace that is willing to watch and wait for elites and counterelites to accumulate trust and work out their differences, reform can be killed by excesses of popular participation. Although virtually everyone favors the growth of civil society, a political system can be torn apart if it is the wrong kind of participation (see Weimar Germany). For instance, participation in political parties that accept the rules of the game of political competition has a positive impact on the political system. In contrast political parties dedicated to the overthrow of the entire system usually destroy the reform process.

Politics based exclusively on religious and ethnic identities tend to divide rather than unite and the rise of identity based politics tends to kill off reform. Continued progress toward settlement of the ethnic conflicts that have bedeviled Burma since independence must be given the highest priority. No peace; no rapid economic improvement. No peace; no sustainable political reform.

At present in Myanmar reconciliation and realistic expectations seem to be the dominant mood.

The just-released U.S. Treasury regulations should facilitate increased assistance to civil society organizations in Myanmar but care must be taken that the civil society organizations being funded support the reform process. Those with political aspirations can either reform the system or break the machine, and assistance to civil society should be designed to promote civility across ethnic and religious divisions.

5. *Favorable Circumstances.* If the world economy were to drop into depression and global trade and incomes collapse, this would obviously imperil political evolution in Myanmar. If, on the other hand, reform starts during a long positive global economic cycle, this helps the process of peaceful reform. Global economic prosperity would benefit reform in Myanmar by enabling elites and counter elites to share an expanding economic pie.

A STRATEGY

First, the current trajectory in Myanmar is positive and the United States should “take ‘yes’ for an answer.”

Second, we should do everything possible to encourage reform in the short run rather than taking a minimalist position. Targeted sanctions relief could support reform without permanently relaxing the entire sanction regime. Rather than waiting for conclusive proof that Myanmar had become a democracy, the United States should selectively relieve prohibitions against private investment to encourage the democratization process by demonstrating the tangible benefits of reform (such as increased employment opportunities). Likewise, international institutions should be encouraged to assess Myanmar’s social and economic needs and provide technical assistance to Myanmar’s reformers in their attempt to create a more modern and open economy. In addition, we should encourage reformist sentiments in the military elite by offering limited access to the U.S. military education system.

Third, private and public support for judicial reform and the rule of law should be given a very high priority. Getting the rule of law established early is vital to the long-term legitimacy of the democratic process. Leaving governance questions

until “later” is a false economy. Institution-building takes longer than anything else, and in Myanmar the current reform moment has created an opportunity to get things right at the outset on important topics such as environmentally responsible investment codes and mechanisms for controlling corruption.

Fourth, the U.S. universities should be encouraged to provide technical assistance to Myanmar’s universities to relieve human resource shortages especially in economics, law, medicine, and engineering. In addition, the United States should encourage its friends and allies such as Australia, Japan, Korea, Singapore, and others to fund scholarships for executive education and degree programs to bring Myanmar back into global society after decades of isolation.

Fifth, above all do no harm. It has been estimated that there are only a few hundred officials and an equally small number of persons in civil society who are implementing the economic and political reforms. When Myanmar becomes “the darling of the donors” aid agencies and NGOs will pour into the country. To satisfy each of their organizational needs the international NGOs will hire away the best and the brightest, thereby damaging the capacity of Myanmar’s Government and civil society to continue to push the reform process forward. Aid agencies and NGOs alike should be encouraged to cooperate in establishing a coordinating mechanism to control the harmful effects of “the aid rush.”

Senator WEBB. Thank you very much, Dr. Jackson.

Again let me say that all of your full statements will be entered into the record immediately following your oral statements, and following that the written statement by the U.S. Chamber of Commerce will be entered into the record.

Senator WEBB. Let me just start off by saying there’s just an enormous amount of experience sitting at this table. All three of you have my profound respect. I have appreciated being able to listen to these condensed statements as well.

I would start off by saying I think that a number of people here in the political process tend to, quite frankly, overreact to the word “sanctions” in terms of lifting sanctions. There’s a difference between lifting sanctions and moving into full relations or full economic relations even. I think you can see that with the example of Vietnam, where it took until I think 2007 until we had full economic relations with Vietnam from 1993.

Dr. Jackson, I really take your point when you talk about moving into an active national diplomatic policy toward this country. It’s a rare moment in history when we have this kind of an opportunity. One of the most profound impressions I had when I was visiting in 2009, when I was able to sit down with General Than Shwe and his immediate group was actually how remote they were. The country had grown more remote, part of it because of the decisions of their own government, part of it because of the way that the Western world, for lack of a better term, had decided simply not to talk with the regime.

And to come out of that remoteness, when you get this moment when there’s an expression of clear intent, really does require proactive policies, because in many cases they don’t know what the next step should be. I mentioned that in my earlier statement, but that’s one of the things I kept hearing, is we want to learn.

So I would like to ask all three of you for your thoughts on, first of all, whether you believe that’s a legitimate comment at this time or whether that represents just a piece of the ruling government, and if so how do we do this? What should we be doing to decrease the remoteness, to incentivize conduct?

Dr. Jackson, you mentioned with respect to the elites.

What should we be doing?

Start with Mr. Steinberg.

Mr. STEINBERG. Senator, if I were to make a suggestion I would think that we, the U.S. Government, the State Department, should be sitting down with the Burmese and saying: You know that sanctions are difficult to be lifted in their entirety. They know that already. Cabinet officials have told Dr. Jackson and myself that. So if you were to establish a timetable saying if you do X we will do Y, and at a certain point if everything works out we will have sanctions ended by a certain date, that will alleviate the anxiety that they have, because in the past they have taken some actions and they wanted a U.S. reaction and we didn't react to the degree they wanted.

But if we could agree on that timetable, that would be a step forward, I think, and it would be proactive.

Senator WEBB. Mr. Manikas.

Mr. MANIKAS. NDI has never had a policy on sanctions themselves, but I think that we certainly think that it's very important to provide positive inducements to the reformers inside the government. When I met with Suu Kyi in January, I know that she communicated that message to me very clearly.

I think that there is going to have to be a variety of ways in which we engage the government, and it could be on the reform measures that I think almost all of us have identified. There are obviously people in government that are quite interested in pursuing reform and we should take advantage of that. That's going to be a form of engagement, I think, that will be very important going forward.

Finally, calibrating the international response to the positive events that are occurring I think is a very challenging task. But I think it's important to consult with a broad range of actors within Burma, including the opposition, in regard to how they feel, how far the international community should go in responding. I think there's going to be continued disagreement over the pace and extent of the international response, but I think that's expected and it's just part of the process that I think we're going to experience going forward.

Senator WEBB. Dr. Jackson.

Dr. JACKSON. I guess I beg to differ with my colleague somewhat. I think we should be more open-handed. I think we should move more quickly, not because I approve of the people who have run that government for the last 40 years, but because I want to see them ushered out the door more rapidly and the way to do that is to allow the reforms to go forward and to prevent internal struggle within the government against those reforms.

We could be doing things at a practical level that would be approved of by people like Daw Aung San Suu Kyi, that we are not able to do or not able to do readily right now. Let me give you an instance. It would be nice to be able to conduct seminars, for instance, for the highest level people in the government, regardless of whether they once wore a military uniform, on the subject of how do you run a nonmilitary bureaucracy, how do you create rule of law as opposed to rule by fiat.

Well, you'd say to yourself, well, the Treasury Department's not going to bother you about conducting those.

Well, unfortunately that's not entirely true, because of the fact that some of those people might be on a list somewhere and I can't get money from an American foundation to do it just on the chance that one of those individuals with whom I might be talking might be on a list somewhere.

These are practical obstacles that are preventing us from moving and moving quickly. The next 2 years are what are critical. Sure, we can eventually get all this stuff cleared up, but the question is how long will the moment for reform last.

Senator WEBB. Thank you very much for that.

I'm going to have to close this hearing. Let me say that, Dr. Jackson, I fully agree with what you just said. I think that the two most important factors right now from my own personal point of view would be to get as many people from the international community to interact with the average citizen on the street in a positive way so they can see with their own eyes different ways of doing things; and the other is to get as many people as we can from their governmental systems out, so that they can see with their own eyes how the rest of the world lives and that we can have the kind of conversations that you're talking about. I will be doing whatever I can in the coming months to try to assist that process.

Again, all three of you, I have a tremendous admiration and respect for the years that you have put into this part of the world and I appreciate you testifying today.

This hearing is over. Thank you.

[Whereupon, at 4:13 p.m., the hearing was adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF THE U.S. CHAMBER OF COMMERCE, THE U.S.-ASEAN BUSINESS COUNCIL, AND THE NATIONAL FOREIGN TRADE COUNCIL

The U.S. Chamber of Commerce, the US-ASEAN Business Council, and the National Foreign Trade Council are pleased to have the opportunity to submit a statement for the record to the Senate Committee on Foreign Relations, Subcommittee on East Asian and Pacific Affairs, on Burma.

Our three organizations represent millions of U.S. businesses across every state and every sector. Our members range from small businesses with a few employees to some of the world's largest companies.

Our members have been watching developments in Burma with great interest, and applauded the much-improved electoral process by which Aung San Suu Kyi and the National League for Democracy won a resounding victory in by-elections held on April 1, 2012. Badly needed political and economic reforms in that country are moving forward, in many cases at a pace faster than most observers had expected. For the first time in many years, there is a genuine sense of hope for the future.

It is in U.S. interests that the process of reform and liberalization continue. We commend the administration, in particular Secretary Clinton and the State Department, for their increased level of diplomatic engagement, and their continued efforts to support reform in Burma.

This is a critical moment; the momentum is behind reform, but the process is fraught, the challenges are formidable, and there is ultimately no guarantee of success. Therefore, U.S. policy should be geared toward supporting and strengthening the hands of the reformers. Strategic engagement by the U.S. Government, as well as by leaders from the nonprofit and business sectors, is vital to solidifying and broadening these reforms.

As the next steps in the process of encouraging Burma's engagement with the global economy are laid out, the door should be opened to further involvement of

the U.S. business community. U.S. companies bring in the capital, technology, and respect for rule of law that will build a foundation for sustained economic growth. Without this foundation, development and improved standards of living for the people of Burma (or any other country) is simply not possible.

Moreover, U.S. companies provide capacity-building, training, high environmental standards, and projects that engage the communities in which they operate to a substantially greater degree than most of our competitors from other nations. For example, Burma's neighbors benefit tremendously from U.S. corporate social responsibility projects in areas ranging from maternal health to education, environmental stewardship, IT training, agricultural productivity, and many others. These are all areas where Burma badly needs support and assistance.

Laying out a plan that eases restrictions on private investment across all sectors and includes the same rules for all businesses is critical to the success of this effort. Permitting investment in some sectors, while prohibiting it in others, will not prevent those sectors from being developed in Burma; it will simply ensure that our competitors fill the void, as they are already doing. As a result, the jobs which could go to American workers will instead go to their counterparts in Europe, Asia and elsewhere. U.S. companies are already starting from a disadvantage, as numerous entities from other nations have substantially stepped up their engagement in recent months.

Most urgently, the lifting of financial services facilitation and transactions sanctions will be essential to the sustainable expansion of the Burmese economy and the successful operation of any U.S. business effort. Currently, U.S. companies are unable to conduct many basic research efforts that would enable them to formulate plans focused on engaging Burma because of the ban. Lifting the financial services facilitation and transactions sanctions in conjunction with easing the investment ban is an essential step in enabling any U.S. business to work in Burma.

The Specially Designated Nationals (SDN) list provides a way to ensure that business dealings do not enrich those parties responsible for Burma's decades of suffering, and that those honest entrepreneurs seeking a way to connect with the outside world are not kept in isolation due to the actions of others. This list should be maintained, regularly updated, and made more accessible and user-friendly.

It is incumbent upon the international community, and multilateral institutions, to ensure the success of Burma's reform effort. The April 23 announcement by the EU of the suspension of its sanctions, and similar moves by Australia, Japan, and others, now calls into question the continued value of coercive measures. We all want to ensure that the citizens of Burma have the chance to rebuild their country with a fair and rules-based economic system that creates sustainable growth. The U.S. administration and Congress need to lay out a plan that will allow U.S. businesses across all sectors to begin the process of reconnecting with Burma in a timely manner.

RESPONSES OF PRINCIPAL DEPUTY ASSISTANT SECRETARY OF STATE JOSEPH YUN TO
QUESTIONS SUBMITTED BY SENATOR JAMES M. INHOFE

Secretary Clinton has established a new Bureau of Energy Resources. In announcing the Bureau, the Secretary recognized the critical importance that energy plays around the world. In describing the Bureau's key missions, she said that it would seek to "increase access to energy in developing countries, expand good governance, and deepen transparency." Secretary Clinton acknowledged that U.S. energy companies are instruments in advancing transparency and safe and sustainable operations.

Question. Assuming you agree with Secretary Clinton's assessment in establishing the Bureau on Energy Resources, do you agree that U.S. oil and gas companies would be instruments that could positively influence transparency and other reform goals in Burma?

The Chinese, French, and other nations are looking to increase investment in Burma's oil and gas sector right now.

Answer. In all of our actions with respect to Burma, from foreign assistance to any potential new investment, the United States is seeking to ensure that we advance our overarching goal of a more democratic, prosperous, and freer future for the diverse peoples of Burma. We believe that U.S. companies, including oil and gas companies, can play a positive role in this effort by demonstrating high standards of responsible business conduct and transparency, including respect for human

rights. As Secretary Clinton announced on May 17, we are taking steps to authorize new U.S. investment in Burma, as well as the export of U.S. financial services to Burma, across all sectors. We believe these steps will help bring the country into the global economy, spur broad-based economic development, and support ongoing reform. We will proceed in a careful manner that supports positive change in Burma and will continue to consult closely with Congress as we move forward.

Question. If the U.S. Government does not allow U.S. oil and gas companies to explore for and produce resources in Burma in the coming months, will those resources go undeveloped or will companies from other countries like China and France fill the void?

Answer. On May 17, Secretary Clinton announced that the U.S. Government will take steps to authorize new U.S. investment in Burma, as well as the export of U.S. financial services to Burma, across all sectors, with the exception of arms.

Chinese, South Korean, Vietnamese, Thai, and Indian companies are already active in Burma's oil and gas sector, as is Total, a French company. Chevron, a U.S. company, retains a minority stake in one project that predated the imposition of the sanctions on new investment. According to press reports, Burma's 2011 bid round resulted in awards of 10 new onshore blocks to companies from Russia, Oman, India, Thailand, Indonesia, Malaysia, Switzerland, and China. Although Burma has a difficult investment climate, we believe Burma's future bid rounds are likely to generate significant international interest.

Question. Do you agree that if sanctions were eased to allow for U.S. oil and gas companies to conduct business in Burma, the United States could assert a positive influence there through close monitoring, and in collaboration with the international community, help ensure strict enforcement of the Specially Designated Nationals list?

Answer. As we take steps to ease our financial and investment sanctions in Burma, we will continue to monitor the situation carefully, work with our regional and like-minded partners, and restrict transactions with individuals and entities on the U.S. Treasury Department's Specially Designated Nationals list. We will work in close collaboration with U.S. companies and U.S. and Burmese civil society leaders to encourage responsible investment consistent with our overall goals of supporting Burma's reform process. American companies can play a positive role in Burma in contributing to broad-based and sustainable economic development and in modeling high standards of labor and human rights, environmental stewardship, and transparency.

Question. Do you agree that U.S. oil and gas companies are more transparent, and generally operate in a more free market manner than Chinese, Russian, or many other nationally owned oil companies?

Answer. Many U.S. companies in the extractives sector helped to create, and are active participants in, international initiatives to promote transparency and respect for human rights, including the Extractive Industries Transparency Initiative and the Voluntary Principles on Security and Human Rights. All U.S. companies, including oil and gas companies, must abide by restrictions in the Foreign Corrupt Practices Act and other U.S. laws that prohibit bribery and other corrupt practices when operating overseas. Furthermore, section 1504 of the Dodd-Frank Wall Street Reform Act requires all companies who file reports with the U.S. Securities and Exchange Commission to disclose payments they make to foreign governments. These initiatives and requirements—along with the voluntary responsible investment and corporate governance activities undertaken by many U.S. companies—encourage U.S. companies to maintain high standards of transparency and accountability, particularly in difficult investment environments with weak institutional governance and rule of law, as is the case in Burma.

Question. As potential instruments of U.S. foreign policy, is it not in our Nation's interest to allow U.S. oil and gas companies to conduct business in Burma and have an opportunity to engage with and advance free market reforms there, and compete against Chinese and Russian own petroleum companies which may not value or support free market or transparency agendas?

Answer. We support a peaceful transition in Burma to a more democratic, prosperous, and free market system that respects the rule of law, the fundamental human rights of its diverse peoples, and all of its international obligations. We believe U.S. companies can contribute to advancing economic reform by promoting high standards of accountability and transparent business practices, as well as improving the lives of the Burmese people through their activities, and we encourage them to do so. On May 17, we announced that we will take steps to ease our bans on the export of financial services and new investment in a manner that supports Burma's economic and political reform process and contributes to a brighter future for its people.

