

BURMA: Letter to President Obama

April 24, 2012

The Honorable Mr. Barack Obama
President of the United States of America
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

Dear President Obama,

Our organizations would like to express our concern regarding the Administration's plans for relaxation of the investment ban and other sanctions on Burma that were announced by Secretary of State Hillary Clinton on April 4, 2012. We appreciate that the discussions on how to proceed are ongoing and that a final decision has not been made. However, we are concerned that the proposed direction of US policy may not best serve the goal of measured progress toward political reforms in Burma. Despite holding by-elections and taking other positive steps, the government has yet to institute the reforms necessary to move Burma toward democracy, and basic political power remains with the military. It is imperative for the United States to retain its leverage until real reform occurs.

Our organizations support the broad position the US government has taken, namely, to gradually relax sanctions in a way that is tied to progress. A gradual approach enables the US government to engage and influence the Burmese government in a direction that supports genuine and sustained political reform towards democratization, durable peace, and improved respect for human rights. We worry, however, that the Administration may be moving forward in a way that will undermine those goals. We strongly believe that any further movement to relax the current financial transactions and investment bans be sequenced and timed in a manner that reflects actual additional progress toward the necessary political reforms and progress to improve human rights in Burma.

As noted below, we believe the best approach in the immediate future is to conduct a comprehensive update of the Specially Designated Nationals (SDN) list before relaxing the investment and financial services bans. In the medium term, the US needs to work with civil society and ethnic nationality leaders in Burma to develop binding standards for US companies doing business in Burma, and then lift restrictions for only a few sectors, carefully selected with participation of the US Treasury Department as well as Burmese civil society, democratic opposition groups, and ethnic nationality leaders. We also believe that the Administration should communicate more effectively to Congress its overall policy objectives and proposed approach regarding Burma, and make clear that current sanctions relaxations are contingent and should continue to be executed by waivers, not underlying legislative change, and that Congress will need to reauthorize underlying sanctions legislation as needed throughout the year.

As stated above, we believe it is premature to relax the financial transactions and investment bans until a comprehensive update of the SDN list has taken place. We also believe that any relaxation of the bans should be accompanied by a clear statement that investment will not be permitted with Burmese entities if the ownership or management of those entities is in any way connected to persons who remain on the SDN list, or entities owned and/or controlled by the Burmese military. If these precautions are not taken, new US business activity permitted under the relaxation may directly benefit individuals and entities responsible for human rights abuses, who contribute to corruption, or are otherwise acting to obstruct political reform. We note that the current SDN list has not been updated comprehensively in several years. We believe it is vital to consult with the Treasury Department and determine when a comprehensive update can be completed, and to further consult with Treasury to ensure the appropriate resources are in place to enforce targeted sanctions in future, before any significant revision to current policy takes effect.

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Once these measures have been taken, we recommend that the Administration consider relaxing the ban on financial transactions before adjusting the investment ban. Moreover, we urge that the Administration maintain the investment ban as a whole and progressively exempt certain sectors only after the US government has determined that investment in the designated sectors would clearly be beneficial to the people of Burma and not exacerbate human rights violations, corruption and/or nepotism. Investment in additional sectors could be permitted over time, as conditions warrant. We do not support the alternative approach of singling out only certain sectors or industries for continued imposition of the investment ban while ending the investment ban on all other sectors. We are concerned that this approach would send a signal to investors that all non-designated sectors are relatively free from the problems noted above. Moreover, this approach deprives the Administration of opportunities to learn lessons from individual sectors to examine actual benefits of investment for the people of Burma.

We also urge that new rules be developed setting out core requirements for responsible, rights-respecting trade and investment in Burma. The US should begin now to consult with civil society inside and outside Burma to develop strong accountability and transparency measures for businesses active in Burma.

We are providing below a list of outstanding issues in Burma on which the US government should continue to promote progress. We do not suggest that all these criteria must be met before the Administration takes any further action. Rather, we would urge you to be aware that while some important steps have been taken there is much progress still to be made to advance structural and institutional reform. It would be important to time the offering of any further incentives to the Burmese government in a way that recognizes the long road ahead.

Our organizations share the view that the gradual easing of US restrictions on Burma should be linked to measurable progress on the outstanding issues below:

- Releasing all remaining political prisoners, and removing all conditions on released political prisoners;
- Instituting a credible process to review cases in which there is a disagreement about whether an incarcerated person is imprisoned for political reasons;
- Allowing international and domestic humanitarian organizations and independent human rights monitors unhindered access to conflict areas, and the delivery of adequate amounts and kinds of humanitarian aid;
- Taking all necessary steps to end serious violations of international human rights and humanitarian law in Burma's conflict areas, investigate allegations of abuses, appropriately discipline and prosecute perpetrators, and promptly and adequately compensate victims of abuse;
- Including mechanisms in any political settlements reached between the government and ethnic minority groups to protect and promote human rights in ethnic minority areas including civil, political, economic, social and cultural rights;
- Amending constitutional provisions that empower the military over the civilian government and that prevent it from being accountable to civilian authority;
- Reforming the justice system to ensure independence of the judiciary and enabling the provision of legal mechanisms to hold perpetrators of human rights violations accountable;
- Bringing Burmese law and practice into conformity with international standards on fundamental freedoms, including expression, association, and peaceful assembly;
- Fulfilling all of the recommendations of the ILO Commission of Inquiry on Forced Labor in Burma - sanctions should not be removed from entities determined by a government to have engaged in or supported forced labor;
- Removing all barriers to the formation of labor unions, worker centers and worker rights nongovernmental organizations, protection for labor activists and organizers from interference and retaliation by employers and government, protection for peaceful labor protests and strikes;

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- Ensuring the safe return of exiles and refugees without retribution;
- Establishing fiscal transparency in order to ensure that profits from natural resources and other public funds benefit the people of Burma and are not squandered or stolen;
- Ensuring a fundamental reevaluation of the military's share of the national budget and engaging in meaningful consultation with Burmese civil society, opposition parties and ethnic minority leaders to develop a national budget that addresses the basic needs of the population and improves public financial management;
- With a view to the need for constitutional changes and for genuine civilian control over the military, creating a climate conducive to free and fair elections in 2015, and affirming that the government is prepared to transfer power to whoever wins those elections;

Thank you for your consideration of these points. We are grateful for our continued engagement with senior leadership of your administration on these important issues.

Signed by:

AFL-CIO
Freedom House
Human Rights Watch
Institute for Asian Democracy
Open Society Foundations
Orion Strategies
Physicians for Human Rights
U.S. Campaign for Burma
United to End Genocide

Copied Sent To:

Hillary Clinton, U.S. Secretary of State
Timothy Geithner, U.S. Secretary of Treasury
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Michael Posner, Assistant Secretary of State, Bureau of Democracy, Human Rights and Labor, Department of State
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Cheryl Mills, Chief of Staff to Secretary Clinton, Department of State