Minister Axworthy noted that "[t]he actions we have taken...are intended to convey the seriousness of our concerns over the suppression of political freedoms and our frustration with Burma's failure to curb the production and trafficking of illegal drugs."

Unlike the US measures, the Canadian sanctions do not apply to investment in Burma, despite calls for such action from Burmese democratic leaders and the recent announcement of several joint ventures between Canadian firms and the repressive Burmese regime. In this regard, Vancouver-based Indochina Goldfields announced in November 1998 the start-up of a US$300 million copper mine in Burma, one that is jointly owned by the regime's mining company. Edmonton-based Mindoro Resources, meanwhile, has partnered with the regime in a Burma gold exploration project.

On February 2, 1999, Canadian Friends of Burma met with representatives of the Department of Foreign Affairs and International Trade to be briefed on the Department's response to a June 25, 1998 CFOB memorandum calling for the application of investment sanctions under the Canadian *Special Economic Measures Act* (SEMA). At that meeting, the Department stated its view that, as a matter of law, the SEMA may not be used to grapple with the situation in Burma as it stands at this time. Unilateral sanctions are only permissible under s.4 of the Act where Cabinet is of the opinion that "a grave breach of international peace and security has occurred that has resulted or is likely to result in a serious international crisis". The Department concedes that this language is nowhere defined in Canadian law, but takes the view that "breach of international peace and security" is to be attributed its meaning in international law. While the Department apparently agrees that an internal civil conflict can be a "threat" to international peace and security in international law, it takes the view that a "breach" requires something approximating a trans-border conflict, of the sort associated with the Gulf War.

According to a second memorandum commissioned by CFOB, issued on April 15, 1999, the position taken by the Department of Foreign Affairs and International Trade on the scope and applicability of the SEMA is questionable. First, its argument that the term "breach of international peace and security" in the Act is to be accorded its international meaning is largely inconsistent with the legislative history of the Act. Instead, this legislative history supports a view of the Act as a flexible instrument that does not pre-define the circumstances in which Cabinet may impose unilateral sanctions. Second, even if one were to accept the Department's view, there is strong reason to believe that circumstances in Burma amount to a breach of international peace and security, within the international meaning of the term. The repeated attacks by Burmese government and proxy forces against refugees in Thailand, and the repeated exchange of fire between these forces and the Thai military, render the Burmese situation a trans-border conflict.

Despite these objections, the Department's view seems to have placed a legal chill on Cabinet action. Accordingly, CFOB has recommended that the Minister resort to a second legal opinion as to the scope of the Act, preferably from a source outside the Department. Alternatively, CFOB has recommended either amendments to the Act or the