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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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CROSBY, SECRETARY OF ADMINISTRATION AND FINANCE OF MASSACHUSETTS, ET AL. *v.* NATIONAL FOREIGN TRADE COUNCIL

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 99–474. Argued March 22, 2000– Decided June 19, 2000

In 1996, Massachusetts passed a law barring state entities from buying goods or services from companies doing business with Burma. Subsequently, Congress imposed mandatory and conditional sanctions on Burma. Respondent (hereinafter Council), which has several members affected by the state Act, filed suit against petitioner state officials (hereinafter State) in federal court, claiming that the state Act unconstitutionally infringes on the federal foreign affairs power, violates the Foreign Commerce Clause, and is preempted by the federal Act. The District Court permanently enjoined the state Act's enforcement, and the First Circuit affirmed.

Held: The state Act is preempted, and its application unconstitutional, under the Supremacy Clause. Pp. 7–26.

(a) Even without an express preemption provision, state law must yield to a congressional Act if Congress intends to occupy the field, *California* v. *ARC America Corp.*, 490 U. S. 93, 100, or to the extent of any conflict with a federal statute, *Hines* v. *Davidowitz*, 312 U. S. 52, 66–67. This Court will find preemption where it is impossible for a private party to comply with both state and federal law and where the state law is an obstacle to the accomplishment and execution of Congress's full purposes and objectives. What is a sufficient obstacle is determined by examining the federal statute and identifying its purpose and intended effects. Here, the state Act is such an obstacle, for it undermines the intended purpose and natural effect of at least three federal Act provisions. Pp. 7–9.

(b) First, the state Act is an obstacle to the federal Act's delegation

of discretion to the President to control economic sanctions against Burma. Although Congress put initial sanctions in place, it authorized the President to terminate the measures upon certifying that Burma has made progress in human rights and democracy, to impose new sanctions upon findings of repression, and, most importantly, to suspend sanctions in the interest of national security. Within the sphere defined by Congress, the statute has given the President as much discretion to exercise economic leverage against Burma, with an eye toward national security, as law permits. The plenitude of Executive authority controls the preemption issue here. The President has the authority not merely to make a political statement but to achieve a political result, and the fullness of his authority shows the importance in the congressional mind of reaching that result. It is implausible to think that Congress would have gone to such lengths to empower the President had it been willing to compromise his effectiveness by allowing state or local ordinances to blunt the consequences of his actions. Yet this is exactly what the state Act does. Its sanctions are immediate and perpetual, there being no termination provision. This unyielding application undermines the President's authority by leaving him with less economic and diplomatic leverage than the federal Act permits. Pp. 10–13.

(c) Second, the state Act interferes with Congress's intention to limit economic pressure against the Burmese Government to a specific range. The state Act stands in clear contrast to the federal Act. It prohibits some contracts permitted by the federal Act, affects more investment than the federal Act, and reaches foreign and domestic companies while the federal Act confines its reach to United States persons. It thus conflicts with the federal law by penalizing individuals and conduct that Congress has explicitly exempted or excluded from sanctions. That the two Acts have a common end hardly neutralizes the conflicting means, and the fact that some companies may be able to comply with both sets of sanctions does not mean the state Act is not at odds with achievement of the congressional decision about the right calibration of force. Pp. 13–16.

(d) Finally, the state Act is at odds with the President's authority to speak for the United States among the world's nations to develop a comprehensive, multilateral Burma strategy. Congress called for Presidential cooperation with other countries in developing such a strategy, directed the President to encourage a dialogue between the Burmese Government and the democratic opposition, and required him to report to Congress on these efforts. This delegation of power, like that over economic sanctions, invested the President with the maximum authority of the National Government. The state Act undermines the President's capacity for effective diplomacy. In re-

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sponse to its passage, foreign governments have filed formal protests with the National Government and lodged formal complaints against the United States in the World Trade Organization. The Executive has consistently represented that the state Act has complicated its dealing with foreign sovereigns and proven an impediment to accomplishing the objectives assigned it by Congress. In this case, the positions of foreign governments and the Executive are competent and direct evidence of the state Act's frustration of congressional objectives. *Barclays Bank PLC* v. *Franchise Tax Bd. of Cal.*, 512 U. S. 298, distinguished. Pp. 16–23.

(e) The State's remaining argument– that Congress's failure to preempt state and local sanctions demonstrates implicit permission– is unavailing. The existence of a conflict cognizable under the Supremacy Clause does not depend on express congressional recognition that federal and state law may conflict, and a failure to provide for preemption expressly may reflect nothing more than the settled character of implied preemption that courts will dependably apply. Pp. 23–25.

181 F. 3d 38, affirmed.

SOUTER, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and STEVENS, O'CONNOR, KENNEDY, GINSBURG, and BREYER, JJ., joined. SCALIA, J., filed an opinion concurring in the judgment, in which THOMAS, J., joined.