

CRS Report for Congress

Burma-U.S. Relations

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Summary

On May 2-3, 2008, Cyclone Nargis hit the Irrawaddy delta and the Rangoon area of Burma. Estimates of the number of people who died was 135,000 as of early June 2008. Hundreds of thousands of people lost their homes and sources of livelihood. Foreign governments and relief organizations sought to bring in massive aid, but the Burmese government (SPDC) restricted the volume of goods that came in and access of disaster experts and relief workers to the affected areas. In the meantime, the SPDC proceeded to hold a referendum on a new constitution in areas not affected by the cyclone. It announced on May 15 that voters approved the constitution by 92.4%.

Many observers assessed the referendum process as not being free and open. This appeared in line with the SPDC's reported poor human rights record since 1990, including the suppression of anti-regime protests in September 2007.

The SPDC appears unaffected by sanctions imposed by the United States and other Western nations. Western sanctions are uneven with U.S. sanctions being the heaviest. Burma has been able to expand exports of a variety of commodities, including growing earnings from natural gas production. China and India have signed deals with the SPDC for substantial purchases of natural gas. Burma also reportedly earns between \$1 billion and \$2 billion annually from exports of illegal drugs, heroin and methamphetamines. Most of these earnings go to drug traffickers connected to the Wa and Shan ethnic groups, but Burmese military officials have means to gain a substantial share of these earnings. Burma's fellow members in the Association of Southeast Asian Nations (ASEAN) have grown more critical of the SPDC, but they continue to oppose sanctions. Chinese diplomatic support of the SPDC and military and economic aid is very important: \$2 billion in military aid since the early 1990s, \$200 million annually in economic aid, substantial foreign investment including new investment in natural gas, and a huge influx of Chinese migrants into Burma, mainly traders. China's role is a prime justification for India's "constructive engagement" policy toward Burma, although India suspended arms sales after the September 2007 uprising. Burma has reestablished diplomatic relations with North Korea amidst reports of growing military cooperation between them.

Since 1988, the United States has imposed sanctions against Burma, including congressional passage in 2003 of the Burma Freedom and Democracy Act (P.L. 108-61) banning imports from Burma (renewed by Congress in 2006). The Bush Administration proposed that the U.N. Security Council consider the Burma situation and introduced a resolution in the Council in December 2006. China and Russia vetoed the resolution in January 2007 and blocked a U.S. attempt to secure Security Council consideration of sanctions in September 2007. Since then, the Administration issued several executive orders prohibiting U.S. financial dealings and imposing a travel ban on named Burmese individuals and companies connected to the SPDC.

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Burma-U.S. Relations

Cyclone Relief Controversy

Estimates of the death toll of Cyclone Nargis on May 2-3, 2008 were 135,000 as of early June 2008. The United Nations estimated that between 1.6 million and 2.5 million people were affected by the storm, left homeless or without basic sources of livelihood such as food and water. Immediately, foreign governments, the United Nations, and international relief organizations offered massive disaster relief to Burma. The Bush Administration pledged \$16.25 million.¹ The Burmese government (SPDC) initially took the position that it could handle the situation. It followed a policy of allowing a limited amount of foreign relief goods into the country and permitting a relatively small number of foreign relief workers to operate within a restricted set of rules. The SPDC imposed special restrictions against the United States, France, and other Western countries that had long imposed sanctions on the SPDC over human rights issues.

The SPDC did allow a large number of U.S. C-130 transport aircraft to bring relief supplies into the country.² However, it barred U.S. disaster experts, relief specialists, and search and rescue teams from the country. It also prohibited the U.S. military from bringing relief goods directly into the country despite the large relief capacity of several U.S. naval vessels off Burma's coast.

Restrictions on the United States, France, and Great Britain (which also had naval contingents offshore) were the most severe. However, the SPDC imposed limitations on other governments and on private aid groups. It limited the number of entrance visas issued to foreign relief workers, and it restricted access of foreign relief workers into the Irrawaddy delta, the area hit hardest by the cyclone.³ However, the trend into June 2008 was a gradual easing of these SPDC restrictions.⁴

The Singapore Foreign Minister announced on May 20 that the SPDC had agreed to allow its fellow members in the Association of Southeast Asian Nations (ASEAN) to coordinate the inflow of foreign relief aid. ASEAN, he said, would

¹ USAID administrator delivers aid to Burma and announces an additional \$13 million in humanitarian assistance, PR Newswire, May 12, 2008.

² Eric Schmitt, Gates accuses Myanmar of 'criminal neglect' over aid, New York Times, June 2, 2008, p. A5.

³ Aid groups say some Myanmar food aid is stolen or diverted by the military, New York Times, May 15, 2008, p. A14. Second storm nears Burma, Washington Times, May 15, 2008, p. A16.

⁴ Simon Montlake, Burma cracks open door, but still wary, Christian Science Monitor, May 27, 2008, p. 6.

work with the United Nations. The SPDC appears to have decided to allow a larger presence of relief workers and medical workers from neighboring Asian countries: the ASEAN countries, China, and India. These personnel were reported to be entering the countries. Singapore's Foreign Minister cautioned that the SPDC still would impose limits on foreign access.⁵

Many foreign governments, including the Bush Administration, and United Nations officials and private aid groups criticized the SPDC for these restrictions. The Bush Administration and European governments considered sending aid into Burma, including aid transported by military units, without the permission of the SPDC. There were proposals to invoke a "responsibility to protect" doctrine that the United Nations General Assembly had adopted in 2005.⁶ However, they have hesitated, partly because China threatened to veto any proposed resolution in the U.N. Security Council authorizing forcible "humanitarian intervention." U.S. officials reportedly also were concerned that the SPDC might react to a forcible U.S.-Western "humanitarian intervention" by harming Aung Sann Suu Kyi, the longtime Burmese opposition leader under house arrest.⁷

China has pledged several million dollars in aid but reportedly has not pressured the SPDC to grant wider access to foreigners. Chinese President Hu Jin-tao reportedly was "unresponsive" when Japanese Prime Minister Fukuda appealed to him at their summit meeting to influence the Burmese government to open Burma to international disaster and relief aid.⁸ China has asserted that other countries must show "due respect" to the Burmese government and that relief work would be dependent on the government.⁹

Constitutional Referendum

On February 9, 2008, Burma's military-led government announced that a national referendum on a new constitution would be held in May 2008 and, if approved, a "multi-party election" under the new constitution would be held in 2010. The government's announcement said that "the time has come to change from military rule to democratic civilian rule."¹⁰ The announcement culminated a long process in which a constitutional convention operated intermittently since late 1992

⁵ Seth Mydans and Alan Cowell, Myanmar to widen neighbors' aid role, *New York Times*, May 20, 2008, p. A10.

⁶ As an example, see the *Washington Post* editorial, *With the junta or without it*, May 20, 2008, p. A15.

⁷ Glenn Kessler and Dan Eggen, Bush plans call to Chinese leader over Burma's stance on aid, *Washington Post*, May 10, 2008, p. A10.

⁸ Jim Hoagland, *New allies in Asia?* *Washington Post*, May 11, 2008, p. B7.

⁹ Seth Mydans and Alan Cowell, Myanmar to widen neighbors' aid role, *New York Times*, May 20, 2008, p. A10.

¹⁰ Aye Aye Win, Myanmar junta schedules constitutional referendum for May, election for 2010, *Associated Press*, February 9, 2008.

in the aftermath of the government's voiding of an election for a constituent assembly in 1990 in which the opposition National League for Democracy (NLD) has won most of the seats. The convention announced general principles for a new constitution on September 3, 2007. A 54-person commission appointed by the government convened in October 2008 to write the constitution. The government announced on February 19, 2008, that the drafting of the constitution was completed.

The text of the new constitution was made public in April 2008. It would give the military the "leading political role" in the state. It would establish a presidential form of government with two legislatures, a Union Parliament and a House of Nationalities. The military would have 25% of seats both bodies, appointed by the armed forces' commander-in-chief. Political parties could operate and run candidates for parliament. Military officials would head the ministries of defense, security, home affairs, and border affairs. The constitution bars anyone from running for public office who has been married to a foreigner — a provision aimed at opposition leader, Aung Sann Suu Kyi, who was married to a British subject.¹¹

At the beginning of May 2008, the U.N. Security Council passed a resolution stating that the SPDC should ensure "fundamental political freedoms" in holding the referendum. However, China blocked two earlier drafts of the resolution that specified freedoms and made reference to Aung Sann Suu Kyi, the leader of the National League of Democracy under house arrest, and said that the SPDC should allow independent monitoring of the vote.¹²

The SPDC decided to proceed with the referendum in the areas unaffected by Cyclone Nargis. It announced on May 15 that the voters had approved the constitution by 92.5%. The cyclone affected areas voted on May 24, 2008. The government reported that 92.9% of these voters had approved the constitution.¹³ A number of reports indicated that the referendum did not meet objective standards for being a free and fair process. The SPDC reportedly instituted a number of policies to ensure that the vote would approve the constitution by a wide margin. It instituted selected arrests of people who attempted to campaign in public for a "no" vote. It allowed no access to the media for advocates of rejection of the constitution.¹⁴ It rejected international monitors of the vote, including United Nations proposals for

¹¹ Myanmar publishes text of military-backed proposed constitution, Associated Press, April 9, 2008. Voting proceeds in Myanmar despite cyclone's devastation, Los Angeles Times, May 11, 2008, p. A11.

¹² Edith M. Lederer, Security Council calls for Myanmar referendum to respect 'fundamental political freedoms,' Associated Press, May 2, 2008.

¹³ When it comes to politics, Burmese say, government is all too helpful, New York Times, May 28, 2008, p. A6.

¹⁴ Burma — press forbidden to refer to campaign for a No vote in referendum on new constitution, Canada NewsWire, April 24, 2008.

such monitors.¹⁵ It reportedly forced civil servants and teachers to vote “yes” publicly in their workplaces.¹⁶

The coercion of civil servants and teachers reportedly was part of a government plan, which also included a scheme under which precinct monitors were limited to the last ten voters. The regime organized members of its mass political organization, the Union Solidarity Development Association, to vote last in the precincts. Moreover, there was no counting of votes at the precinct level. All results were announced by the central government in the capital of Naypidaw.¹⁷

The September 2007 Uprising

By October 1, 2007, the Burmese military government had suppressed with force large-scale anti-government protests that began in late August 2007 and escalated in size and objectives in mid-September. Thousands of protesters led by Buddhist monks marched in Rangoon and Mandalay, Burma’s two largest cities. The size of the protests reached a reported 100,000 in Rangoon on September 24. Anti-government, pro-democracy activists joined the protests along with thousands of ordinary citizens.

Equally as important, the objectives of the protests became more political. The early protests called for a rescinding of the August 15 fuel price increases. Spokesmen for the monks joined the pro-democracy activists in calling for political reforms, including a release of political prisoners and negotiations between the government and opposition leader Aung Sann Suu Kyi. Several hundred monks visited Aung Sann Suu Ky on September 22, 2007, at her home where she is under house arrest. An organization called the All Burma Monks Alliance issued a statement calling for an expansion of protests “in order to banish the common enemy evil regime from Burmese soil forever;” in short, regime change.

The growth of the size and objectives of the protests led to the government’s decision to crack down with military force. The crackdown began on September 25, 2007, with a ban on assemblies and a curfew. Troops entered Rangoon and Mandalay. They employed tear gas and warning shots, and there were reported instances where the troops fired into crowds of protesters. The military began mass arrests, especially of monks. Troops surrounded and fenced off Buddhist monasteries. The government announced ten deaths, but opposition groups claimed a much higher death toll. The government cut off access to the internet and arrested

¹⁵ U.N. envoy disappointed by Myanmar visit, *New York Times*, March 19, 2008, p. A3. Aung Hla Tun, Myanmar cracks down on ‘no’ campaign — opposition, *Reuters News*, April 10, 2008.

¹⁶ Aung Hla Tun, Myanmar “forces” civil servants to vote for charter, *Reuters News*, May 2, 2008.

¹⁷ Burma said intends to rig constitution referendum, *BBC Monitoring Asia Pacific*, April 24, 2008. Burma: junta appears set to rig referendum on constitution. *Global Information Network*, April 23, 2008.

a number of domestic and foreign journalists.¹⁸ A Japanese journalist was murdered by Burmese soldiers in Rangoon. Arrests continued into October 2007. An official of the United Nations Human Rights Commission estimated in December 2007 that at least 31 people were killed in the September 2007 protests and that the Burmese government was detaining 500 to 1,000 people arrested during and after the protests.¹⁹

On October 4, 2007, the official Burmese media reported that General Than Shwe, the top official of the government told the U.N. envoy that “he would meet directly with her [Aung Sann Suu Kyi] for dialogue” if she promised to stop “promoting four things — confrontation, utter devastation, economic sanctions on Myanmar, and other sanctions.”²⁰ The government’s media did not provide explanations of these conditions, but they appear to focus on Aung Sann Suu Kyi promising not to encourage street demonstrations and protests against the government and to cease calling on foreign governments to impose economic and other sanctions on Burma. The SPDC appointed a cabinet minister as a liaison with Sung Sann Suu Kyi. He met with her four times as of the end of January 2008. Little apparently was accomplished.

Burma’s “Extremely Poor Human Rights Record”

In 1988, the Burmese military established rule through a military junta (subsequently called the State Peace and Development Council — SPDC). One of its first acts was to change the official name of the country from Burma to Myanmar. However, the U.S. government has continued to use “Burma” in official statements, and this report will use “Burma” unless statements are quoted using “Myanmar.”

Since 1988, numerous reports, including the annual reports of the U.S. State Department, have described extensive abuses of human rights perpetuated by the SPDC and the Burmese military. These assessments have changed little over the subsequent 17 years. The State Department’s human rights report for 2004 concluded that the SPDC has an “extremely poor human rights record”; and the 2004 and 2005 reports asserted that the situation had “worsened” in each year. Numerous reports throughout 2006 and 2007 indicate a continuation of this trend. The Department’s reports and reports of private groups have laid out a familiar pattern of government and military abuses: extra-judicial killings, torture, rape, arbitrary arrests for political reasons, forced impressment into the service of the military, forced labor and relocations, and tight restrictions on the press, speech, and assembly. The number of political prisoners has been over 1,000 for several years (including the

¹⁸ Edward Cody, Deadly crackdown intensifies in Burma, *Washington Post*, September 27, 2007, p. A1.

¹⁹ Warren Hoge, U.N. Myanmar report cites new arrests and deaths, *New York Times*, December 8, 2007, p. 10.

²⁰ “Burmese junta’s Than Shwe willing to meet Suu Kyi if she ends sanctions call,” *Agence France Presse*, October 4, 2007. “Myanmar junta chief willing to meet opposition leader Suu Kyi — but with conditions,” *Associated Press*, October 4, 2007.

house arrest of Aung Sann Suu Kyi and NLD deputy leader Tin Oo (which the SPDC extended for one year in February 2008).²¹

Many human rights abuses reportedly are committed by the military against members of Burma's ethnic minorities. The government negotiated cease-fire agreements with 17 ethnic insurgencies in the 1990s; but three groups, the Karen, Karenni, and Shan have continued to fight. Ethnic minorities make up the bulk of an estimated 540,000 internally displaced people in eastern Burma and over 150,000 refugees who have fled across the border into Thailand. A large-scale Burmese military offensive against Karen insurgents throughout 2006 and 2007 reportedly has included burning of villages, forced relocations of civilians, mine-laying in civilian areas, and rapes.²² Government policies reportedly are particularly oppressive against members of the Muslim Rohingya minority in western Burma, whom the SPDC has barred from citizenship.²³

The worsening human rights situation has been influenced by the deteriorating political situation since 2002. It began with the physical attack by SPDC supporters on Aung San Suu Kyi and her followers in May 2003 and her subsequent house arrest. In October 2004, the SPDC arrested Khin Nyunt, chief of Burma's Defense Intelligence organization, and scores of his intelligence officials. Khin Nyunt had been the arm of the SPDC in dealing with foreign governments, including the United States and Burma's partners in the Association of Southeast Asian Nations (ASEAN). He reportedly had advocated that the regime open negotiations with the NLD and be responsive to some of the international criticisms of the SPDC. He reportedly had convinced the junta to release Aung San Suu Kyi from house arrest in April 2002, and his representatives had contacted U.S. officials, urging a positive U.S. response to the SPDC's decision. Khin Nyunt's fall from power apparently removed from within the SPDC the main element in favor of greater flexibility.²⁴ Since the purge, younger Burmese military commanders have assumed higher positions of power. Many have been field commanders in areas of reported high levels of human rights abuses. They have had little foreign contacts and little apparent awareness of foreign attitudes toward Burma.²⁵

With Khin Nyunt's ouster, power in the SPDC is vested in 75-year-old Senior General Than Shwe and Vice Senior General Maung Aye, the army's commander-in-chief. Rumors of a power struggle between them have not been substantiated. Than Shwe appears to be the top decision-maker, and he reportedly is deeply hostile to

²¹ "No progress on Burma rights," British Broadcasting Corporation, January 18, 2006. "Myanmar freed 40 political prisoners — opposition," *Reuters News*, January 4, 2007.

²² Anthony Faiola, Misery spirals in Burma as junta targets minorities, *Washington Post*, November 17, 2006. p. A1.

²³ U.S. Department of State, *Country Reports on Human Rights Practices — 2005*, March 8, 2006. Chapter on Burma.

²⁴ Michael Casey, Burma muzzles Suu Kyi, her party, *Washington Times*, December 17, 2005. p. A10.

²⁵ Larry Jagan, Rangoon's generals prepare for the changing of the guard, *Bangkok Post* (internet version), October 12, 2005.

Aung Sann Suu Kyi. Many analysts believe that Maung Aye's power has increased since the ouster of Khin Nyunt.²⁶

In November 2005, the SPDC ordered government ministries to leave the capital city of Rangoon and move to a new designated capital of Pyinmana, 200 miles north of Rangoon. Foreign embassies were given no notice of the move. They were told to communicate with government offices by fax and that foreign governments could build new embassies after December 2007.²⁷ The move came as a new U.S. Embassy was being constructed in Rangoon and had been half completed.

International Pressure Mixed With Foreign Support for the SPDC

The SPDC seems relatively unaffected by the economic and diplomatic sanctions placed on Burma by the United States, the European Union, Japan, and Australia. There are five apparent reasons for the failure of international sanctions to pressure the regime to institute political reforms. The SPDC undoubtedly has benefitted by the lack of uniformity of the sanctions imposed on it. U.S. sanctions are the broadest (see section on U.S. Policy). European, Japanese, and Australian sanctions are more limited in scope and do not totally cut off trade and investment with Burma. The European Union (EU) has imposed a visa ban on Burmese officials, an arms embargo, a freeze on Burmese assets in EU countries, and a suspension of most-favored-nation trade treatment; but there is no ban on imports of Burmese products or EU private investments in Burma. Great Britain reportedly is the third largest private investor in Burma with investments valued at \$1.4 billion in 2004. In 2005, the EU provided nearly \$45 million in aid primarily for health, education, and the environment.²⁸ Japan has funded aid projects in Burma reportedly totaling more than \$18 million in 2004, including hydro-electric power and the Rangoon airport. After a Japanese reporter was killed in Rangoon during the September 2007 uprising, the Japanese government stated that it would consider new sanctions against Burma, but in January 2008, Japan pledged \$1.79 million in humanitarian aid. The Japanese government defines its aid as "humanitarian," but other governments, including the Clinton and Bush administrations, have countered that the aid is actually infrastructure aid.²⁹

²⁶ Michael Casey, Paranoid and xenophobic, Myanmar junta leaders only know force in dealing with critics, *Associated Press*, September 30, 2007.

²⁷ Embassies can move to new Myanmar (Burma) capital in two years, says junta, *Thai News Service*, January 5, 2006. Alan Sipress, As scrutiny grows, Burma moves its capital, *Washington Post*, December 28, 2005. p. A1.

²⁸ Z Brake, Messages of investment: acceptance of the Burmese regime, *BurmaNet News*, (internet), August 11, 2004. Benedict Rogers, Burma needs a stronger international effort, *Asian Wall Street Journal*, August 26, 2003, p. A7. Linda Sieg, EU presses Myanmar on prisoner release, dangles aid, *Reuters News*, May 6, 2005.

²⁹ Japan's aid to Burma criticized as U.S. calls grow for international sanctions, Carbaugh Daily Report, October 13, 2004. Edith Lederer, U.S. plans to pursue U.N. resolution on (continued...)

Even U.S. sanctions do not include the biggest U.S. business activity in Burma, the Yadana offshore natural gas production and the gas pipeline into Thailand constructed and operated by a consortium that has included the U.S. UNOCAL Corporation (UNOCAL recently was taken over by Chevron). Chevron has a 28% share of the consortium. The other consortium members are the French corporation Total with a 31% share, PTT Exploration and Production Public Company of Thailand with a 26% share, and the Burmese government-owned Myanmar Oil and Gas Enterprise with a 15% share. The newspaper, *The Myanmar Times*, reported in its August 20-26, 2007, edition that the Yadana project earned \$2.16 billion in 2006. An estimate for the consortium's earnings in 2007 is \$2.8 billion.³⁰ Chevron's 28% share of the \$2.16 billion profit in 2006 would be approximately \$600 million. A conservative estimate of the Burmese government's income from the Yadana project in 2006 is about \$500 million. Of the \$2.16 billion profit, the Myanmar Oil and Gas Enterprise would receive about \$330 million based on its 15% share. Top Burmese military officials are believed to control and profit from a number of these major government corporations. A conservative estimate of Burma's corporate income tax intake would be 10% of \$1.83 billion (the consortium's 2006 profit minus the share of the Myanmar Oil and Gas Enterprise): about \$183 million. The government may be able to draw in additional money from the project in other ways, but this is not known.

The second factor is the ability of Burma to expand exports of a variety of commodities to countries of Asia and beyond. These include natural resources such as natural gas, nickel, precious gems, and timber; shrimp and other sea-based products; and illegal drugs (heroin and methamphetamines). Reportedly, exports of textiles have picked up since the U.S. import ban of 2003, as Burma has found other markets in Asia and Europe.³¹ Burma earned an estimated \$1 billion in exports of natural gas in 2004 and 2005,³² and earnings could grow substantially in the future from new natural gas explorations and production. The South Korean company, Daewoo, announced in August 2006 the discovery of a gas field off Burma's coast that could produce between 5.7 and 10 trillion cubic feet of gas that could lead to annual production for the next 20-25 years. The British Petroleum Statistical Review puts Burma's proven gas reserves at 19 trillion cubic feet. China and India have signed deals with the SPDC, which would make them primary customers for this gas and future discoveries of gas. The Chinese deal reportedly would have Burma supply 6.5 trillion cubic feet of gas to China over 30 years. In April 2006, Russia's Zarubezhneft oil company signed an agreement with the SPDC's energy ministry, which reportedly will open the way for Russian investments in Burma's oil and gas

²⁹ (...continued)

Myanmar but Russia, China and Japan object. *Associated Press*, May 31, 2006.

³⁰ Thomas Fuller, For Myanmar's neighbors, mutual needs trump qualms, *New York Times*, October 2, 2007, p. A8.

³¹ Alan Sipress, Asia keeps Burmese industry humming, *Washington Post*, January 7, 2006. p. A11.

³² Ibid. Mohan Malik, Mohan, Regional Reverberations from Regime Shake-up in Rangoon, Asia-Pacific Center for Security Studies, January 2005, p. 6.

industry.³³ Investors must conclude profit or production-sharing agreements with state-owned corporations or with regional military commands, which insures a significant flow of money to the SPDC and members of the ruling, military-based elite.

Burma reportedly earns between \$1 billion and \$2 billion annually from exports of the illegal drugs, heroin and methamphetamines. This seems to be at least as much and possibly substantially more than the \$900 million annually, which the U.S. Embassy in Rangoon estimated that Burma earned in the mid-1990s.³⁴ Most of these earnings, predominately foreign exchange, go to drug traffickers who produce and ship the drugs across Burma's borders. Most of the traffickers are connected to particular ethnic groups along Burma's borders with China and Thailand, such as the Wa and the Shan. However, Burmese military officials at various levels have a number of means to gain a substantial share of these earnings. Local military commands reportedly collect high government taxes on the drug traffickers as well as fees for military protection and transportation assistance. U.S. State Department annual international narcotics reports have stated that "there is no reliable evidence that senior officials in the Burmese Government are directly involved in the drug trade."³⁵ However, the SPDC allows and encourages drug traffickers to invest in an array of domestic businesses, including infrastructure and transportation enterprises. The SPDC reportedly gets start-up fees and taxes from these enterprises. Military officers sometimes are partners in them. The traffickers usually deposit the earnings from these enterprises into banks controlled by the military. Military officers reportedly deposit much of their drug-related money in foreign bank accounts in places like Bangkok and Singapore.³⁶ However, in 2005, the SPDC did shut down three banks allegedly due to drug-related money laundering.

The Burmese military has had an especially close relationship with the Wa tribe, including the Wa drug producers and traffickers. In a cease-fire agreement of 1989, the military allowed the Wa wide autonomy, including the maintenance of armed Wa military forces and the freedom to produce drugs. The Wa soon became a dominant factor in the heroin trade. In 2001, Burmese military intelligence officials and the Wa leadership reportedly concluded an agreement under which the Wa were encouraged to reduce their production of opium and heroin but were given a free

³³ Tim Johnson, While others push to free Myanmar, China takes a more profitable path, *Philadelphia Inquirer*, March 8, 2006, p. A2. Myanmar keeps gas options open with India pact, *Reuters News*, March 8, 2006. Russia, Myanmar agree to strengthen economic ties, *Dow Jones International News*, April 3, 2006. Amanda Battersby, Chinese in frame for Burmese gas, *Upstream News*, January 20, 2006.

³⁴ Europa Publications, *The Far East and Australasia 2005*. London and New York, Europa Publications. p. 718. Bertil Lintner, Burma: a blind eye to drugs, *Far Eastern Economic Review*, November 7, 1996, p. 88.

³⁵ U.S. Department of State, *International Narcotics Control Strategy Report. Volume I: Drug and Chemical Control*, March 2006, p. 244.

³⁶ Christopher Wren, Road to riches starts in the golden triangle, *New York Times*, May 5, 1998, p. A8. Robert S. Gelbard, Slorc's drug links, *Far Eastern Economic Review*, November 21, 1996, Anthony Davis, The Wa challenge regional stability in Southeast Asia, *Jane's Intelligence Review*, January 2003, p. 6, 13.

hand to expand production of methamphetamine pills for export.³⁷ Opium production dropped from an estimated 2,500 metric tons in the mid-1990s to 953 tons in 2001 to just over 600 tons in 2002, and to 380 metric tons in 2005, according to U.S. estimates.³⁸ Nevertheless, at the same time, the Wa were expanding their production of methamphetamine pills; smuggling into Thailand rose from an estimated 300 million tablets in 1999 to 1 billion in 2003.³⁹ Wa earnings from methamphetamine sales was estimated at \$300 million in 2002, and Wa earnings from heroin smuggling was estimated at \$250-\$300 million.⁴⁰ Reports on the 2001 agreement between the Burmese intelligence officials and Wa leaders assert that the agreement included profit sharing provisions, which give the military a share, possibly as high as 50%, of Wa earnings from drug trafficking.⁴¹

A third factor limiting the impact of international sanctions is the “constructive engagement” policy of Burma’s fellow members in the Association of Southeast Asian Nations (ASEAN), which eschews sanctions and diplomatic pressure. Thailand has important economic interests in Burma, including \$1.29 billion in private investments in 49 projects within Burma in 2004 and imports from Burma valued at \$1.06 billion in the Thai FY2003-2004. Singapore’s investments in Burma reportedly totaled \$1.4 billion in 2004.⁴² Singapore reportedly is a major travel destination for the Burmese elite, and SPDC leader Than Shwe reportedly has been treated for intestinal cancer at a Singapore government hospital. Singapore also is believed to have sold arms to Burma’s military.⁴³ However, several ASEAN governments turned more critical of Burma after the re-arrest of Aung Sann Suu Kyi in 2003. This is due in part to the increasing democratization within these states, especially Indonesia, and Burma’s disruptive influence on ASEAN’s relations with the European Union and the United States. Malaysian and Indonesian officials have stepped up criticisms of the SPDC. Members of ASEAN country parliaments have formed an ASEAN Inter-Parliamentary Caucus on Democracy in Myanmar. In 2005, ASEAN governments pressured Burma to either institute political reforms or give up its scheduled chairmanship of ASEAN in 2006. The SPDC chose to give up the chairmanship, another indication of its continued resistance to outside pressures.

³⁷ Minority misuses Burmese land gift, *Far Eastern Economic Review*, December 20, 2001, p. 8. Surath Jinakul, Dangerous escalations, *Bangkok Post* (internet version), May 20, 2001.

³⁸ Seth Mydans, Small victories in recorded in Burmese war on drugs, *New York Times*, July 7, 2002, p. NE4. Burma urges more US cooperation in war on drugs, Agence France Presse (Hong Kong), March 2, 2003. U.S. Department of State, *International Narcotics Control Strategy Report. Volume I: Drug and Chemical Control*. March 2006, p. 241.

³⁹ Larry Jagan, Fighting Burma’s drug trade, *Bangkok Post* (internet version), January 19, 2003.

⁴⁰ Anthony Davis, The Wa challenge regional stability in Southeast Asia, *Jane’s Intelligence Review*, January 2003, p. 12.

⁴¹ Wa and Burmese commanders strike a new deal, *BurmaNet News*, October 1, 2001. Surath Jinakul, Dangerous escalations, *Bangkok Post* (internet version), May 20, 2001.

⁴² Z Brake, Messages of investment: acceptance of the Burmese regime, *BurmaNet News* (internet), August 11, 2004.

⁴³ Eric Ellis, Web of cash, power and cronies, *The Age.com.au*, September 29, 2007.

Malaysian Foreign Minister Syed Hamid Albar went to Burma in March 2006 as a special ASEAN envoy to discuss democratic reforms, but his visit accomplished little. The SPDC did not allow him to meet with Aung Sann Suu Kyi.

Despite diplomatic pressure, ASEAN leaders stressed to the Bush Administration that ASEAN assertiveness has limits and will not include economic sanctions against Burma. However, ASEAN took a first diplomatic step when its Secretary General publicly called on China and India to “take a larger role in encouraging Myanmar to speed reform measures.”⁴⁴ Indonesian Foreign Minister Hassan Wiradjuda followed up with a statement on May 19, 2006, in Washington, D.C., that China, India, and South Korea should use their aid and investments in Burma “to make sure that Myanmar changes itself to be more democratic.”⁴⁵ Nevertheless, Indonesia demonstrated the limits of ASEAN’s assertiveness when it abstained in the U.N. Security Council vote in January 2007 on a U.S. resolution condemning the SPDC and calling for reforms. Malaysian Prime Minister Abdullah Badawi also expressed opposition to the U.S. resolution. In the September 2007 crisis, ASEAN leaders criticized the Burmese government, but they indicated no support for the U.S.-EU effort to get the U.N. Security Council to consider sanctions. ASEAN governments reactions to the SPDC’s February 2008 announcements of a constitutional referendum and 2010 elections were guardedly positive.

The fourth and probably biggest factor is Chinese economic and military aid to Burma. China takes the position that political and human rights conditions in Burma are the “internal affairs” of Burma. The SPDC’s Prime Minister, Soe Win, stated after his February 2006 trip to China that Chinese Premier Wen Jiabao had pledged China’s unwavering support and said that Beijing would oppose the imposition of economic sanctions by the United Nations.⁴⁶ China fulfilled that apparent pledge when it vetoed the U.S. resolution in the U.N. Security Council in January 2007 and blocked the U.S.-EU initiative in the Security Council in September 2007. China (and Russia) argued that despite Burma’s internal problems, Burma does not constitute a threat to regional and international peace and security that would bring it within the purview of the Security Council. China reportedly has counseled the SPDC to moderate its behavior and has expressed concern over the flow of narcotics into southern China. Since the September 2007 protests and SPDC crackdown, China has supported the dispatch of a United Nations mediator, but it claims to have minimal influence. China reportedly has initiated quiet contacts with exiled Burmese

⁴⁴ Malaysia tells U.S. official ASEAN to seek ‘acceptable’ role on Burma, British Broadcasting Corporation, January 16, 2006. S.E. Asian nations ask China, India, to prod Myanmar, *Reuters News*, March 30, 2006.

⁴⁵ Paul Eckert, Indonesia urges Myanmar trade partners to use clout, *Reuters News*, May 19, 2006. Wiradjuda said that his reference to South Korea was in reference to South Korea’s recent investment activities in natural gas and construction.

⁴⁶ Agence France Presse report, December 14, 2005. Statement by Chinese Foreign Ministry spokesman Liu Jianchao. Tim Johnson, While others push to free Myanmar, China takes a more profitable path, *Philadelphia Inquirer*, March 8, 2006, p. A2.

opposition leaders,⁴⁷ but it refuses to pressure the SPDC publicly, and apparently privately, to free Aung Sann Suu Kyi and negotiate with her. However, some experts believe that the SPDC's February 2008 announcements of a constitutional referendum and elections were due to pressure from China.⁴⁸

China took a diplomatic initiative in June 2007 when it arranged a meeting in Beijing between a State Department official and Burmese government representatives. The State Department provided little information on the content of the meeting. Chinese officials have not discussed publicly their objectives in setting up the meeting. It may be that China seeks to facilitate a sustained U.S.-Burma dialogue similar to the U.S.-North Korean dialogue that China encouraged and helped to facilitate in late 2006 and throughout 2007.

China's extensive role in Burma has five components. First, China has provided Burma with an estimated \$2 to \$3 billion in military aid since the early 1990s, which has enabled the Burmese army to expand from 180,000 to 450,000 in 2005. China was active in shipping weapons to Burma in 2006, coinciding with the Burmese army's offensive against the Karens.⁴⁹ Second, China's economic aid is estimated at \$200 million annually, much of which goes into infrastructure, including electric power.⁵⁰ Third, China is believed to be the largest foreign investor in Burma; Chinese companies reportedly have invested in more than 800 projects with direct investment estimated at close to \$3 billion.⁵¹ A report by an expert at the Asia-Pacific Center for Security Studies, a research organization of the U.S. Pacific Command, estimated that China "controls more than 60 percent of the Burmese economy."⁵² Visitors to Burma report a large Chinese economic presence in Burma from Mandalay northward, including an estimated one million or more Chinese migrants into Burma since 1995, mainly traders. Fourth, China officially has been Burma's third largest trading partner, but there reportedly is a huge, informal cross-border trade that is unrecorded. The Burmese and Chinese governments projected bilateral trade reached close to \$2 billion in 2007.⁵³ The fifth component is China's interest in Burma's natural gas and potential pipelines across Burma into China. The Chinese-Burmese natural gas deal, discussed earlier, undoubtedly will increase

⁴⁷ Chris Buckley, Chris. China quietly reaches out to Myanmar opposition, *Reuters News*, September 26, 2007.

⁴⁸ Amy Kazmin, Hand of Beijing seen in events, *Financial Times*, Asia Edition, February 12, 2008, p. 3.

⁴⁹ Democratic Voice of Burma broadcast, December 13, 2006.

⁵⁰ Joe Cochrane, Stubborn survivor, *Newsweek International* (internet version), March 21, 2005.

⁵¹ U.S. Campaign for Burma, China's support blocks international diplomacy and keeps Burma's regime in power, 2007, p. 3.

⁵² Mohan Malik, Regional Reverberations from Regime Shake-up in Rangoon, Asia-Pacific Center for Security Studies (internet version), January 2005, p. 8.

⁵³ Alan Sipress, Asia keeps Burmese industry humming, *Washington Post*, January 7, 2006, p. A11. Zhang Yunfei, New progress has been achieved in China-Burma economic and trade cooperation, Xinhua Asia-Pacific Service, December 9, 2007.

China's interest in supporting the SPDC. China also reportedly is planning the construction of oil and natural gas pipelines from Burma's coast on the Indian Ocean northward into China, through which Chinese oil purchased in the Middle East and Burmese natural gas could be transported to China rather than by sea through the Strait of Malacca and the South China Sea.⁵⁴

China's growing role also is cited by Indian officials as a prime justification for India's "constructive engagement" policy toward Burma. This has included India-Burma agreements on Indian aid, trade, and counter-insurgency cooperation, and as stated previously, an agreement for Indian purchases of Burma's natural gas.⁵⁵ In 2006, India began to sell arms to the Burmese military. India initially took a low posture toward the SPDC's crackdown on the September 2007 protests, but it later halted arms shipments to Burma.

Another negative development is the reestablishment of Burma's diplomatic relations and military links with North Korea. Burma broke diplomatic relations with North Korea in 1983 after North Korean agents planted a bomb in Rangoon which killed 17 high-ranking South Korean officials. In April 2006, they reestablished diplomatic relations. It is known that since the late 1990s, Burma has purchased artillery and ammunition from North Korea, has sent military delegations to Pyongyang, and has received North Korean technicians at a Burmese naval base. North Korean ships and diplomats have been caught carrying heroin with Double U-O labels, a brand of heroin produced in the Golden Triangle region of Burma. There also are reports that Burma is interested in acquiring North Korean short-range surface-to-surface missiles and submarines, although no purchases have been confirmed. Observers, too, have speculated that Burma and North Korea might collaborate in developing nuclear facilities inside Burma, but there appears to be little hard evidence to substantiate this.⁵⁶

A likely fifth factor in the failure of U.S.-led sanctions to pressure the SPDC into making political concessions is that the SPDC requires significant income, including foreign exchange, for a relatively narrow segment of Burma's population. Several hundred high-ranking military officers and their families are the core of the ruling elite. They reportedly are involved in many business ventures and manage state corporations that regulate and enter into partnership agreements with private companies, including foreign investors.⁵⁷ Income earned domestically and from

⁵⁴ Jane Perlez, Myanmar is left in dark, an energy-rich orphan, *New York Times*, November 17, 2006. p. 1. Lam, Willy. "China's energy paranoia." *Asian Wall Street Journal*, July 30, 2004. p. A9.

⁵⁵ Cropley, Ed. "Myanmar junta leader to make historic India visit." *Reuters News*, October 21, 2004.

⁵⁶ Bertil Lintner and Shawn Crispin, Dangerous bedfellows, *Far Eastern Economic Review*, November 20, 2003, p. 22-24. Andrew Selth, *Burma's North Korean Gambit: A Challenge to Regional Security?* Canberra, Strategic and Defence Studies Centre, The Australian National University, 2004. p. 17-41.

⁵⁷ Blaine Harden, The new Burmese leisure class: army capitalists, *New York Times*, November 21, 2000, p. A3. Economist Intelligence Unit, *Country Profile: Myanmar*

foreign transactions appears to be easily sufficient to ensure that the ruling class enjoys a high standard of living. Moreover, the priority given to the military in government budgets appears to provide adequate resources for rank and file military personnel.

U.S. Policy

Since 1988, the United States has imposed a wide range of sanctions against Burma. By 2004, these had terminated nearly all economic relations with Burma. The main sanctions currently are: a suspension of aid, including anti-narcotics aid; opposition to new loans to Burma by the international financial institutions; an executive order by President Clinton on May 20, 1997, prohibiting U.S. private companies from making new investments in Burma; and congressional passage of the Burmese Freedom and Democracy Act (P.L. 108-61) banning imports from Burma into the United States, affecting mainly imports of Burmese textiles, and banning travel to the United States by Burmese connected to the SPDC and U.S. financial transactions with individuals and entities connected to the Burmese government. In response to the September 2007 uprising, the Bush Administration issued a number of executive orders under The Burmese Freedom and Democracy Act. These orders named Burmese officials, Burmese companies, and Burmese businessmen as subject to the sanctions authorized under the act. The orders froze any financial assets these individuals and companies have in the United States, prohibit Americans from conducting business with them, and bar them from traveling to the United States. (For the details of the executive orders, see CRS Report RS22737, *Burma: Economic Sanctions*.)

President Bush announced new sanctions, a freezing of the assets in the United States of Burmese several state-owned Burmese companies on May 1, 2008, on the eve of Cyclone Nargis. These firms were covered by previous sanctions. Both he and First Lady Laura Bush voiced criticisms of the SPDC immediately after the storm struck. In response to the cyclone, he stated that the United States wants to help the Burmese people deal with the disaster and “at the same time, of course, we want them to live in a free society.”⁵⁸ Laura Bush described the SPDC as “a friendless regime” that “should step aside.” Their statements drew criticisms from some Burmese exiled opposition figures, officials of other Southeast Asian governments, and from the European Union’s director of humanitarian affairs as being inappropriate in the aftermath of a natural disaster.⁵⁹

⁵⁷ (...continued)

(*Burma*), 2005. p. 17, 21.

⁵⁸ Business Wire, May 1, 2008.

⁵⁹ Richard Cronin, Perspective, in the Nelson Report, May 19, 2008, p. 8-9. Amy Kazmin, Bush offers navy units, criticizes junta as storm aid begin to reach Rangoon, *Washington Post*, May 7, 2008, p. A1. Sanctions will not help Myanmar people: EU aid chief, *Agence France Presse*, May 17, 2008. Richard Cronin is a former CRS Specialist in Asian Affairs now with The Stimson Center.

The United States has not had an Ambassador to Burma since 1992 when the Senate Foreign Relations Committee refused to confirm the nomination of an Ambassador because of the human rights abuses. The State Department also concluded that Burmese officials were profiting from groups that produced and exported heroin and other illicit drugs despite some SPDC moves to limit opium production and drug-related money laundering. Burma is on the U.S. list of uncooperative drug-producing or transit countries.

The dominant objective of Bush Administration diplomacy has been to strengthen international sanctions against Burma. President Bush raised the issue with other heads of government at the APEC summit of November 2005. The Administration stepped up bilateral diplomacy with the ASEAN countries; and apparently for the first time, the Administration included Burma on the U.S. bilateral agenda with China. The Administration's major initiative was the effort to have Burma placed on the agenda of the U.N. Security Council. A report issued in mid-2005 by Nobel Peace Prize winners Vaclav Havel, former president of the Czech Republic, and Archbishop Desmond Tutu of South Africa proposed that the Security Council take an initiative on the human rights situation in Burma. The Bush Administration succeeded in securing a private Security Council meeting on Burma in December 2005. After the SPDC extended the house arrest of Aung San Suu Kyi in May 2006, the Administration proposed a formal resolution on Burma in the Security Council.

The U.S. draft resolution included the following points: Burma "poses serious risks to peace and security in the region"; the SPDC should release Aung San Suu Kyi and all political prisoners; the SPDC should allow full freedom of expression and allow the National League for Democracy and other political parties to operate freely; the SPDC should "begin without delay a substantive political dialogue, which would lead to a genuine democratic transition, to include all political stakeholders"; the SPDC should "cease military attacks against civilians in ethnic minority regions" and end human rights violations against ethnic minorities; the SPDC should allow international humanitarian organizations "to operate without restrictions" and cooperate with the International Labor Organization to eradicate forced labor.

Despite its diplomatic efforts, the United States suffered a major defeat in January 2007 when China and Russia vetoed the U.S. resolution in the U.N. Security Council and Indonesia abstained on the vote. Future U.S. diplomatic options to bring about U.N. appear minimal, given China's blockage of the U.S.-EU initiative in the Security Council in September 2007.

The Administration's stepped-up diplomacy with China did produce in 2007 a single U.S. diplomatic move not related to sanctions. In June 2007, the Bush Administration agreed to send a diplomat to Beijing for a Chinese-arranged meeting with a Burmese government official. The Administration and the State Department did not disclose information about the meeting. In the aftermath of the September 2007 uprising, the Bush Administration does not appear interested further meetings.

In the past, the Administration has indicated that it would use sanctions to initiate a kind of "road map" process with the SPDC in which the Administration would respond to a positive measure by the SPDC by selectively lifting an individual

sanction with the prospect of additional lifting of sanctions in response to additional positive measures by the SPDC. U.S. business groups and several U.S. academic experts support such a strategy. They argue that sanctions will not produce a total SPDC capitulation or a regime collapse and that U.S. sanctions are contributing to China's increased role in Burma. They assert that the United States should engage the SPDC.⁶⁰ When the SPDC released Aung San Suu Kyi from house arrest in 2002, the State Department discussed with Burmese officials a resumption of anti-narcotics aid. The Department reportedly considered recommending that Burma be certified as eligible for U.S. anti-narcotics aid in view of the SPDC's apparent success in reducing opium and heroin production. However, this initiative drew strong negative reactions from the press and especially from key Members of Congress, which reportedly resulted in its abandonment.⁶¹

In a statement of May 23, 2006, Assistant Secretary of State Christopher Hill indicated that the Bush Administration might consider a road map process if the SPDC took some specific actions. He mentioned the release of "the many hundreds, even thousands of political prisoners," the release of Aung Sann Suu Kyi, and "a resumption of dialogues" between the SPDC and the opposition. Hill suggested that if the SPDC took a positive measure on any of these issues, the Administration would initiate a positive measure in return: "If we see a movement in this direction, if we see an effort, of course we'll respond."⁶²

However, sentiment in Congress appears to be against a "road map" approach and favors maintaining the full range of U.S. sanctions until the SPDC and the Burmese military terminate major human rights abuses and make fundamental political concessions to Aung Sann Suu Kyi in a comprehensive agreement for a democratic system. The Burmese Freedom and Democracy Act, which Congress renewed in the summer of 2006, specifies that the ban on imports from Burma and other restrictions are to remain until the President certifies to Congress that the SPDC has made major progress to end human rights violations; has released political prisoners; has allowed political, religious and civil liberties; and has reached agreement with the NLD for a civilian government chosen through democratic elections.⁶³ A sense of the Senate resolution, passed unanimously on May 18, 2006 (S.Res. 484), called on the Bush Administration to take the lead in securing a U.N. Security Council resolution calling for the immediate and unconditional release of Aung San Suu Kyi and other political prisoners, condemning the Burmese army's

⁶⁰ David I. Steinberg, Engage Burma, *Washington Post*, July 15, 2003, p. A19. The National Bureau of Asian Research in Seattle issued a lengthy report in March 2004, which contained essays from seven leading critics of U.S. sanctions strategy. See *Reconciling Burma/Myanmar: Essays on U.S. Relations with Burma*, National Bureau of Asian Research, Seattle, 2004.

⁶¹ Glenn Kessler, Reward for Burma's Anti-Drug Efforts Unlikely, *Washington Post*, December 18, 2002, p. A29. Top Senators keep pressure on Burma. *Far Eastern Economic Review*, March 20, 2003, p. 8. Glenn Kessler, U.S. may take Burma off 'major' drug list, *Washington Post*, November 22, 2002, p. A25.

⁶² U.S. urges Myanmar to release prisoners, *Associated Press*, May 23, 2006.

⁶³ See also John McCain and Madeleine Albright, A need to act on Burma, *Washington Post*, April 27, 2004, p. A21.

“atrocities” against the Karen, and “supporting democracy, human rights, and justice in Burma.” U.S. human rights organizations and most Burmese exile groups appear to back this approach and emphasized in 2006 the need for the United States to push for U.N. Security Council consideration of Burma.⁶⁴

H.R. 3890. Introduced in the House of Representatives on October 19, 2007, H.R. 3890 passed the House on December 12, 2007. The Senate passed it on December 19, 2007. However, the two versions contain differences. One minor difference is that the House and Senate versions have different names. The House version is entitled Block Burmese Jade Act of 2007. The Senate version is entitled Burma Democracy Promotion Act of 2007. Both versions ban the import into the United States of jade, rubies, or jewelry containing jade or rubies that are mined or extracted from Burma. The Senate version also bans the importation of teak or other hardwood timber that originated from Burma. Most importantly, the Senate version does not contain a key provision of the House version that prohibits “United States persons” from entering into economic-financial transactions, paying taxes, or performing “any contract” with Burmese government institutions or individuals under U.S. sanctions. The House prohibition of the payment of taxes specifically includes the payments of taxes to the Burmese government by the Yadana natural gas project, in which the U.S. corporation, Chevron, is a major partner.

The Senate version contains a section requiring that the President appoint a “Special Representative and Policy Coordinator for Burma,” the appointment to be subject to Senate confirmation. The Special Representative would “promote... multilateral sanctions, direct dialogue with the SPDC and democracy advocates, and support for nongovernmental organizations operating in Burma and neighboring countries” aimed at restoring civilian democratic rule. The Special Representatives would consult with other key government and assist the efforts by the United Nations special envoy to secure the release of Burmese political prisoners and promote dialogue between the SPDC and pro-democracy leaders, including Aung San Suu Kyi.

⁶⁴ For an example of the debate between critics and supporters of strong sanctions against Burma, see Foreign Policy in Focus’ Strategic Dialogue of January 18, 2007, featuring statements by Professor David Steinberg of Georgetown University and Dr. Kyi May Kaung, a Burmese political analyst.

Figure 1. Map of Burma



Source: Map Resources. Adapted by CRS. (K.Yancey 5/4/06)