

CRS Report for Congress

Burma and Transnational Crime

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Summary

Transnational organized crime groups in Burma (Myanmar) operate a multi-billion dollar criminal industry that stretches across Southeast Asia. Trafficked drugs, humans, wildlife, gems, timber, and other contraband flow through Burma, supporting the illicit demands of the region and beyond. Widespread collusion between traffickers and Burma's ruling military junta, the State Peace and Development Council (SPDC), allows organized crime groups to function with impunity. Transnational crime in Burma bears upon U.S. interests as it threatens regional security in Southeast Asia and bolsters a regime that fosters a culture of corruption and disrespect for the rule of law and human rights. Congress has been active in U.S. policy toward Burma, requiring sanctions to be imposed on Burmese imports, suspending most foreign assistance and loans, and ensuring that U.S. funds remain out of the regime's reach. This report analyzes the primary actors driving transnational crime in Burma, the forms of transnational crime occurring, and current U.S. policy in combating these crimes. This report will be updated as events warrant.

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Burma and Transnational Crime

Scope of the Problem

Transnational organized crime groups flourish in Burma, trafficking contraband that includes drugs, humans, guns, wildlife, gems, and timber. Transnational crime is highly profitable, reportedly generating roughly several billion dollars each year. The country's extra-legal economy, both black market and illicit border trade, is reportedly so large that an accurate assessment of the size and structure of the country's economy is unavailable. Contraband trafficking also remains a low-risk enterprise, as corruption among Burmese junta officials facilitates trafficking and effectively provides the criminal underground immunity from law enforcement and judicial action. Synergistic links connect various forms of contraband trafficking; smugglers use the same routes for many forms of trafficking, following paths of least resistance, where corruption and lax law enforcement prevail.

The continued presence of transnational crime in Burma and the illicit trafficking routes across Burma's borders share many features of so-called "ungoverned spaces" — regions of the world where governments have difficulty establishing control or are complicit in the corruption of the rule of law.¹ Among the commonalities that Burma's border regions share with other ungoverned spaces is physical terrain that is difficult to control; Burma's long borders, through which much smuggled contraband passes, stretch across vast trackless hills and mountains that are poorly patrolled. In addition, continuing ethnic tensions with some ethnic armed rebel groups hamper government control in some regions of the country. Recent cease-fire agreements in other border regions have not markedly improved the situation; instead, these cease-fires have provided groups known for their activity in transnational crime with near autonomy, essentially placing these areas beyond the reach of Burmese law.

Congress has long been active in U.S. policy toward Burma, including on issues related to transnational crime. Because the State Department lists Burma as a major drug-producing state, the country is barred access from U.S. foreign assistance under several long-standing legislative provisions.² Congress also authorizes sanctions against countries that the State Department deems in non-compliance with the

¹ See the 2006 National Security Strategy of the United States, available at [<http://www.whitehouse.gov/nsc/nss.html>], and Angel Rabasa et al., *Ungoverned Territories: Understanding and Reducing Terrorism Risks* (Santa Monica, CA: Rand Corporation, 2007).

² Laws under which drug-related sanctions are authorized include Section 489(a)(1) of the Foreign Assistance Act of 1961 (P.L. 87-195), as amended; the Narcotics Control Trade Act (P.L. 99-570, as amended); and the Customs and Trade Act of 1990 (P.L. 101-382).

minimum standards for the elimination of trafficking in persons, which includes Burma.³

Most recently, the 110th Congress has sought to strengthen unilateral sanctions against Burma once more. In response to the Burmese government's forced suppression of anti-regime protests in August and September of 2007, the House and Senate each passed versions of H.R. 3890 in December 2007, called the Block Burmese Jade Act of 2007 in the House and the Burmese Democracy Promotion Act of 2007 in the Senate. If H.R. 3890 becomes law, it could authorize the Secretary of the U.S. Department of Treasury to prohibit the import of some Burmese natural resources, including certain types of timber and gems, and to further restrict U.S. financial transactions with Burmese government institutions and individuals. H.Rept. 110-418, which accompanies H.R. 3890, also cites "Burma's rampant drug trade" and "its role as a source for international trafficking in persons and illicit goods" as additional reasons for these new sanctions.

Primary Actors and Motives

Organized Crime/Ethnic Gangs

The United Wa State Army (UWSA), ethnic Chinese criminal groups (including the Triads), the Shan State Army-South (SSA-S), and other armed gangs have criminal networks that stretch from India to Malaysia and up into China. The State Department states that the UWSA operates freely along the China and Thailand borders, controlling much of the Shan State with a militia estimated to have 16,000 to 20,000 members.⁴ Criminal groups, especially the 14K Triad, reportedly operate in the north of the country and in major population centers.⁵ According to the Economist Intelligence Unit (EIU), these criminal organizations remain virtually immune from interference by Burma's ruling military junta, the State Peace and Development Council (SPDC), because of widespread collusion with junta military, police, and political officials.⁶

Official Corruption

U.S. State Department and other observers indicate that corruption is common among the bureaucracy and military in Burma. Burmese officials, especially army and police personnel in the border areas, are widely believed to be involved in the

³ Pursuant to the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386), as amended.

⁴ U.S. Department of State, *International Narcotics Control Strategy Report*, vol. 1 (2007).

⁵ Jane's Sentinel Security Assessment: Southeast Asia, July 20, 2007; Antonio Nicaso and Lee Lamothe, *Angels, Mobsters, and Narco-Terrorists: The Rising Menace of Global Criminal Enterprises* (Ontario, Canada: John Wiley & Sons, 2005).

⁶ Economist Intelligence Unit, *Myanmar (Burma) Country Profile* (2006).

smuggling of goods and drugs, money laundering, and corruption.⁷ The 2006 EIU country report on Burma states that “corruption and cronyism” are widespread “throughout all levels of the government, the military, the bureaucracy and business communities.” Burma ties with Somalia as the most corrupt country in the world according to Transparency International’s 2007 *Corruption Perceptions Index*; this is a worsening from its 2006 position as the second-most corrupt country in the world.⁸ In addition, the State Department states that Burma’s weak implementation of anti-money laundering controls remains at the root of the continued use by narcotics traffickers and other criminal elements of Burmese financial institutions.⁹

Although there is little direct evidence of top-level regime members’ involvement in trafficking-related corruption, there is evidence that high-level officials and Burmese military officers have benefitted financially from the earnings of transnational crime organizations. In the case of the drug trade, reports indicate Burmese military officials at various levels have several means to gain substantial shares of narcotics trafficking earnings. Some reports indicate that the Burmese armed forces, or *Tatmadaw*, may be directly involved in opium poppy cultivation in Burma’s Shan state. Some local *Tatmadaw* units and their families reportedly work the poppy fields and collect high taxes from the traffickers, as well as fees for military protection and transportation assistance.¹⁰

The SPDC also reportedly allows and encourages traffickers to invest in an array of domestic businesses, including infrastructure and transportation enterprises, receiving start-up fees and taxes from these enterprises in the process. The traffickers usually deposit the earnings from these enterprises into banks controlled by the military, and military officers reportedly deposit much of their crime-related money in foreign bank accounts in places like Bangkok and Singapore.¹¹

⁷ U.S. Department of State, *International Narcotics Control Strategy Report*, vols. 1 and 2 (2007); Jane’s Sentinel Security Assessment: Southeast Asia, July 20, 2007, *op cit.*; Economist Intelligence Unit, *op cit.*; Transparency International, *Corruption Perceptions Index* (2007). According to some analysts, corruption among police and border patrol officials in Burma’s neighboring countries also eases the flow of trafficked goods out of Burma. See also Nora Boustany, “Burmese Activist Urges Stronger U.S. Sanctions,” *The Washington Post*, November 2, 2007. In this news article, Maung Maung, secretary general of the National Council of the Union of Burma, stated that “the country’s revenue from gas, rubies, teak, timber, rice, gas, uranium, and diamonds is being pilfered for the personal enrichment of junta members or their families.”

⁸ Transparency International, *op cit.*; Transparency International, *Corruption Perceptions Index* (2006).

⁹ 2007 *International Narcotics Control Strategy Report*, vol. 1, *op cit.*

¹⁰ Michael Black and Anthony Davis, “War and Peace: The UWSA and Tensions in Myanmar,” *Jane’s Intelligence Review*, March 2008.

¹¹ See CRS Report RL33479, *Burma-U.S. Relations*, by Larry A. Nicksch; Christopher S. Wren, “Road to Riches Starts in the Golden Triangle,” *New York Times*, May 5, 1998; 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.

Regional Demand

The most frequent destinations for much of Burmese contraband — opium, methamphetamine, illegal timber, endangered wildlife, and trafficked humans — are China and Thailand.¹² Other destinations include India, Laos, Bangladesh, Vietnam, Indonesia, Malaysia, Brunei Darussalam, South Korea, and Cambodia. Demand for Burma's contraband reaches beyond the region, including the United States. The U.S. Drug Enforcement Administration (DEA), for example, reports that Burmese-trafficked methamphetamine pills have been confiscated within the United States.¹³ The United States is also reputed to be among the world's largest importers of illegal wildlife;¹⁴ no concrete data exist, however, to link such transnational ties with Burma.

Peasants and Urban Poor

Ready recruits for organized crime activities can be found in both urban ghettos and impoverished rural areas.¹⁵ According to the Asian Development Bank, 27% of Burma's population live below the poverty line, making the country one of the poorest in Southeast Asia. Many analysts state that peasant farmers, rural hunters, and other poor often serve at the base of Burma's international crime network, growing opium poppy crops, poaching exotic and endangered species in Burma's lush forests, and serving as couriers and mules for contraband. In addition, the State Department and other observers have found that many victims of transnational crime in Burma are the poor, becoming commodities themselves as they are trafficked to be child soldiers for the junta or slaves for sexual exploitation.¹⁶

¹² See United Nations Office on Drugs and Crime, *World Drug Report (2007)*; 2007 *International Narcotics Control Strategy Report, op cit.*; Global Witness, *A Choice for China: Ending the Destruction of Burma's Northern Frontier Forests* (2005); Jolene Lin, "Tackling Southeast Asia's Illegal Wildlife Trade," *Singapore Year Book of International Law*, vol. 9 (2005); and U.S. Department of State, *Trafficking in Persons Report (2007)*.

¹³ U.S. Drug Enforcement Administration, "Methamphetamine: The Current Threat in East Asia and the Pacific Rim," *Drug Intelligence Brief*, September 2003.

¹⁴ U.S. Fish and Wildlife Service, Annual Report FY2006, August 2007; "Wildlife Smuggling Boom Plaguing L.A., Authorities Say," *National Geographic News*, July 26, 2007.

¹⁵ Michael Lyman, *Organized Crime* (Upper Saddle River, NJ: Prentice Hall, 2007).

¹⁶ 2007 *Trafficking in Persons Report, op cit.*

Illicit Economies in Burma

Drugs

In September 2007, the Administration once again included Burma on the list of major drug transit or major illicit drug producing countries.¹⁷ Located at the heart of the “Golden Triangle” of narcotics trafficking, Burma is among the world’s top producers of opium, heroin, and methamphetamine.¹⁸ Illicit narcotics reportedly generate between \$1 billion and \$2 billion annually in exports. In addition, Burma’s drug trafficking activities appear to be linked to the recent spread of HIV and AIDS in the region, as drug users along Burma’s trafficking routes share contaminated drug injection needles.

Heroin and Opium. The DEA reports that Burma accounts for 80% of all heroin produced in Southeast Asia and is a source of heroin for the United States.¹⁹ Although poppy cultivation declined significantly from 2000 to 2006, Burma remains the world’s second-largest producer of illicit opium, behind Afghanistan, and production may once again be on the rise (see **Table 1**).²⁰ Much of the decline in recent years has been attributed to UWSA’s 2005 public commitment to stop its activity in the opium and heroin markets. However, recent reports suggest that since the UWSA’s self-imposed ban, production is shifting to areas apparently administered by Burma’s armed forces, the Tatmadaw.²¹

¹⁷ This annual list is required by section 706(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (P.L. 107-228).

¹⁸ The “Golden Triangle” refers to an area of approximately 135,000 square miles of mountains that surround the Burma-Laos-Thailand border region. In the 1980s and 1990s, the Golden Triangle reigned as the world’s largest producer of opium poppy.

¹⁹ U.S. Drug Enforcement Administration, *Drugs of Abuse*, 2005, available at [<http://www.usdoj.gov/dea/pubs/abuse/doa-p.pdf>].

²⁰ 2007 *International Narcotics Control Strategy Report*, vol. 1, *op cit*.

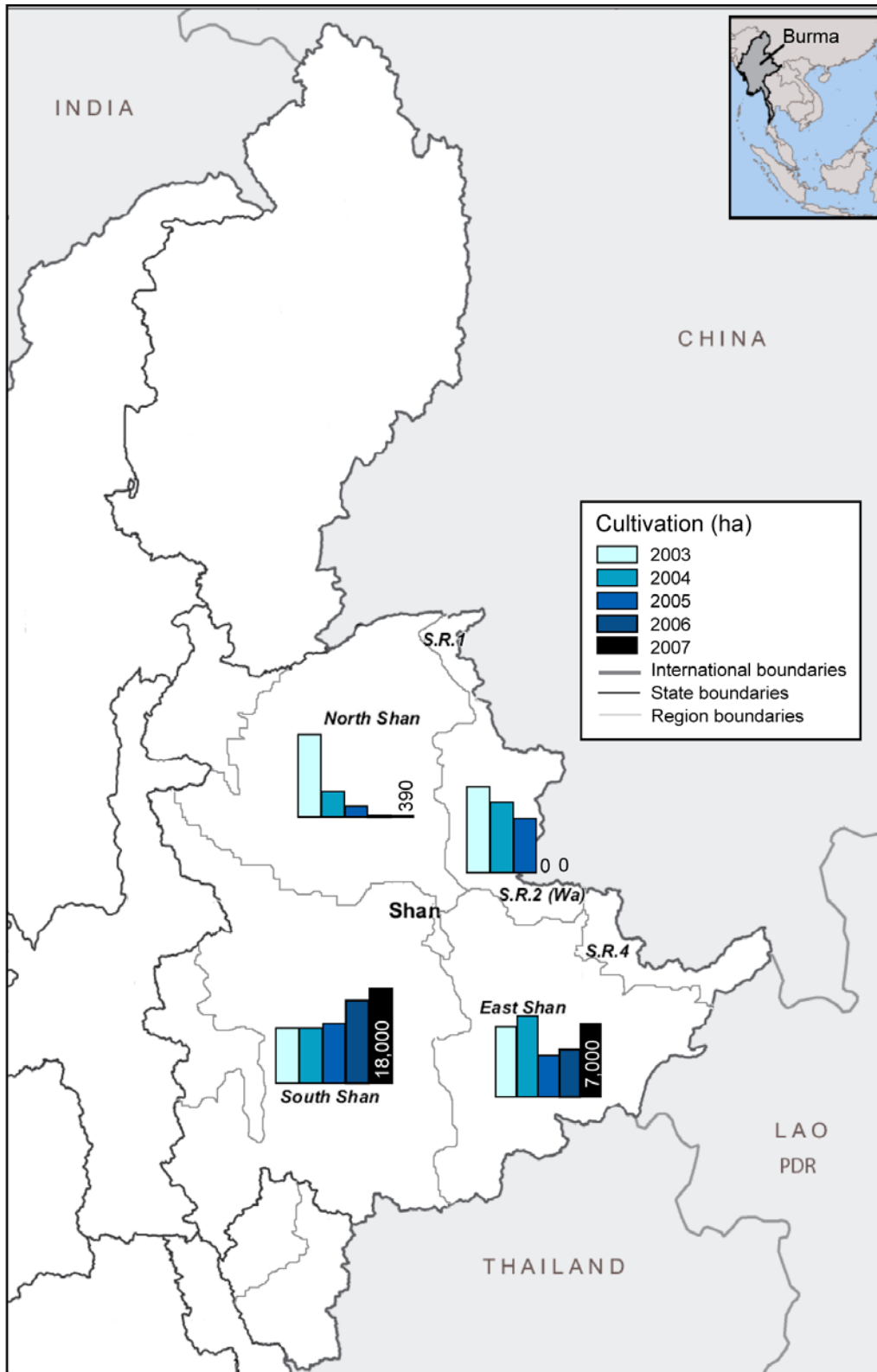
²¹ Black and Davis, *op cit*. See also: Central Intelligence Agency, *World Factbook* (2007); 2007 *International Narcotics Control Strategy Report*, vol. 1, *op cit*.

Table 1. Opium Cultivation, Production, and Price Trends in Burma, 1997-2007

Year	Opium Poppy Cultivation (hectares)	Potential Opium Production (metric tons)	Total Potential Farm Gate Value of Opium Produced (U.S. constant dollars)
1997	155,150	1,676	\$590 million
1998	130,300	1,303	\$454 million
1999	89,500	895	\$145 million
2000	108,700	1,087	\$308 million
2001	105,000	1,097	\$291 million
2002	81,400	828	\$147 million
2003	62,200	810	\$121 million
2004	44,200	370	\$98 million
2005	32,800	312	\$63 million
2006	21,500	315	\$75 million
2007	27,700	460	\$123 million

Source: CRS calculations based on United Nations Office on Drugs and Crime, *World Drug Report*, 2004-2007; and United Nations Office on Drugs and Crime, *Global Illicit Drug Trends*, 2003-1999.

Figure 1. Opium Poppy Cultivation in Burma's Shan State, 2003-2007



Sources: United Nations Office on Drugs and Crime, *World Drug Report*, 2004-2007; United Nations Office on Drugs and Crime, *Global Illicit Drug Trends*, 2003-1999. Graphics adapted by CRS.

Methamphetamine and Synthetic Drugs. In addition to producing heroin and opium, Burma is a significant producer of synthetic drugs, including methamphetamine and a crystallized version of methamphetamine called *ice*.²² Burma's rise to prominence in the global synthetic drug trade is in part the consequence of UWSA's commitment to ban opium poppy cultivation. According to some, UWSA leadership may be intentionally replacing opium cultivation with the manufacturing and trafficking of amphetamine-type stimulants.²³ As a result, Burma has emerged as one of the world's largest producers of methamphetamine and other amphetamine-type stimulants. The State Department states that this sharp increase in methamphetamine trafficking is "threatening to turn the Golden Triangle into an 'Ice Triangle.'"²⁴

Humans

Burma has been designated as a "Tier 3" state in every Trafficking in Persons (TIP) Report ever published by the State Department. Tier 3 is the worst designation in the TIP Report, indicating that the country does not comply with minimum standards for combating human trafficking under the Trafficking Victims Protection Act of 2000, as amended (Division A of P.L. 106-386, 22 U.S.C. 7101, et seq.). Victims are trafficked internally and regionally, and junta officials are directly involved in trafficking for forced labor and the unlawful conscription of child soldiers, according to several reports.²⁵ Women and girls, especially those of ethnic minorities groups and those among the thousands of refugees along Burma's borders, are reportedly trafficked for sexual exploitation. Victims are reportedly trafficked from rural villages to urban centers and commerce nodes, such as truck stops, border towns, and mining and military camps.²⁶

Natural Resources

Timber and Wildlife. Burma is rich in natural resources, including extensive forests, high biodiversity, and deposits of minerals and gemstones. Illegal trafficking of these resources is reportedly flowing to the same destination states and along the same trafficking routes as other forms of trafficking. Global Witness, a London-based non-governmental organization, estimates that 98% of Burma's timber exports to China, from 2001 to 2004, were illegally logged, amounting to an average of \$200 million worth of illegal exports each year.²⁷ Many analysts also claim that the

²² U.S. Department of State, *International Narcotics Control Strategy Report*, vol. 1, *op cit.*; Jane's Sentinel Security Assessment: Southeast Asia, July 20, 2007, *op cit.*

²³ U.S. Department of State, *International Narcotics Control Strategy Report*, vol. 1, *op cit.*

²⁴ U.S. Department of State, *International Narcotics Control Strategy Report*, vol. 1, *op cit.*

²⁵ 2007 *Trafficking in Persons Report*; Sold to Be Soldiers: Human Rights Watch, *The Recruitment and Use of Child Soldiers in Burma*, October 2007. See also "Burma/Myanmar: After the Crackdown," *International Crisis Group*, Asia Report No. 144, January 31, 2008.

²⁶ 2007 *Trafficking in Persons Report*, *op cit.*, p. 71.

²⁷ Global Witness (2005), *op cit.*

region's illegal timber trade is characterized by complex patronage and corruption systems.²⁸

Wild Asiatic black bears, clouded leopards, Asian elephants, and a plethora of reptiles, turtles, and other unusual animals reportedly are sold in various forms — whole or in parts, stuffed, ground, or, sometimes, alive — in open-air markets in lawless border towns.²⁹ Growing demand in countries such as China and Thailand has increased regional prices for exotic wildlife; for example, a tiger's skin can be worth up to \$20,000, according to media reports.³⁰ One report suggests that valuable wildlife is used as currency in exchange for drugs and in the laundering of other contraband proceeds.³¹

Gems. Rubies, sapphires, jade, and other gems have also been used as non-cash currency equivalents. The legal sale of Burmese gems is among the country's most significant foreign currency earners — \$297 million during the 2006-2007 fiscal year, according to Burma's customs department; more may be traded through illicit channels.³² Some observers claim that the junta is heavily involved in both the legal and illegal trade of gemstones, as the regime controls most mining operations and the sale of gems through official auctions and private sales reportedly arranged by senior military officers.³³ Congress has also accused the Burmese regime of attempting to evade U.S. sanctions against the import of Burmese gemstones by concealing the gems' origin from potential buyers.³⁴

Other Contraband

AK-47s, B-40 rocket launchers, and other small arms are reportedly smuggled into Burma along the Thai-Burmese border. These weapons reportedly go to the Karen guerrillas, who continue to fight a decades-long insurgency against the Burmese junta. Another report implicates the Shan State Army in trafficking in military hardware.³⁵ Although analysts say it is unlikely that the ruling junta benefits from the criminal profits of small arms trafficking, reports indicate that the

²⁸ See, for example, Vaudine England, "The Mekong Connection in Illegal Log Trade," *Sunday Morning Post* (Hong Kong), March 23, 2008.

²⁹ Christopher Shepherd and Vincent Nijman, "An Assessment of Wildlife Trade at Mong La Market on the Myanmar-China Border," *TRAFFIC Bulletin*, vol. 21, no. 2 (2007).

³⁰ "Factbox: Why Are Asia's Endangered Animals So Sought After?" *Reuters News*, September 3, 2007.

³¹ Lin, *op cit*.

³² "Myanmar Rubies, Sapphires for Sale at Gems Fairs," *Reuters News*, October 19, 2006.

³³ See "Burma: Gem Trade Bolsters Military Regime, Fuels Atrocities," *Human Rights Watch*, November 12, 2007; "Burma and Blood Gems," Leber Jeweler, Inc., available at [http://www.leberjeweler.com/stones/burma_bloodgems.php3].

³⁴ See P.L. 108-61; U.S. House of Representatives, Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2007, H.Rept. 110-418, Part 1, October 31, 2007.

³⁵ Eric Tagliacozzo, "Border Permeability and the State in Southeast Asia: Contraband and Regional Security," *Contemporary Southeast Asia*, vol. 23, no. 2 (2001).

government distributes such weapons to its cadre of child soldiers.³⁶ Other less high-profile markets for contraband reportedly exist, including trafficking in cigarettes, cars, CDs, pornography, antiques, religious items, and counterfeit documents.

In April 2008, Japan's public broadcaster NHK reported that Burma has been importing multiple-launch rockets from North Korea, raising international concerns and speculation about why Burma would seek out such weapons in violation of U.N. sanctions imposed on North Korea after its nuclear test in October 2006.³⁷ Some observers speculate that the Burmese military has been seeking to upgrade its artillery to improve the country's protection against potential external threats.³⁸ Burma and North Korea are thought to have been involved in conventional weapons trade in violation of U.N. sanctions since spring 2007. Observers further claim that "Western intelligence officials have suspected for several years that the regime has had an interest in following the model of North Korea and achieving military autarky by developing ballistic missiles and nuclear weapons."³⁹

Money Laundering

In 2001, Burma was designated as a Non-Cooperative Country or Territory (NCCT) by the Financial Action Task Force on Money Laundering (FATF) for deficient anti-money laundering provisions and weak oversight of its banking sector.⁴⁰ Following the designation by the FATF, the Department of Treasury's Financial Crimes Enforcement Network (FinCEN) issued an advisory in 2002 to U.S. financial institutions to give enhanced scrutiny to any financial transaction related to Burma.⁴¹ In 2003, two of Burma's largest private banks — Myanmar Mayflower Bank and Asia Wealth Bank — were implicated by FATF as involved in laundering illicit narcotics proceeds. The Secretary of the Treasury in 2004 listed Burma as a "major money laundering country of primary concern" and imposed additional

³⁶ Human Rights Watch, *Small Arms and Human Rights: The Need for Global Action; A Human Rights Watch Briefing Paper for the U.N. Biennial Meeting on Small Arms* (2003).

³⁷ "NKorea Exporting Multiple-Launch Rockets to Myanmar — Report," *CNBC*, April 2, 2008, at [<http://www.cnbc.com/id/23915950>]; U.N. Security Council Resolution 1718 (2006).

³⁸ See for example "Oslo-Based Website: Burma's Purchase of North Korean Arms Threatens Stability," *BBC Monitoring Asia Pacific*, April 6, 2008; "Thai-Based Website: U.S. Concerned over Reports of North Korean Weapons to Burma," *BBC Monitoring Asia Pacific*, April 6, 2008.

³⁹ Michael Green and Derek Mitchell, "Asia's Forgotten Crisis: A New Approach to Burma," *Foreign Affairs*, November/December 2007, Vol. 86, Issue 6.

⁴⁰ Created in 1989, the Financial Action Task Force (FATF) is an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing.

⁴¹ See 31 CFR Part 103, Department of the Treasury, Financial Crimes Enforcement Network, Imposition of Special Measures against Burma.

countermeasures.⁴² Burma has since revoked the operating licenses of the two banks implicated in 2003. However, the U.S. government and international bodies, such as FATF, continue to monitor the widespread use of informal money transfer networks, sometimes also referred to as “hundi” or “hawala.” Monies sent through these informal systems are usually legitimate remittances from family members abroad. The lack of transparency and regulation of these money transfers remain issues of concern for the United States. In other parts of the world, hawala or hawala-like techniques have been used, or are suspected of being used, to launder proceeds derived from narcotics trafficking, terrorism, alien smuggling, and other criminal activities.⁴³

U.S. Policy

Sanctions and Special Measures

Burma is subject to a broad sanctions regime that addresses issues of U.S. interest, which include democracy, human rights, and international crime.⁴⁴ Specifically in response to the extent of transnational crime occurring in Burma, the President has taken additional actions against the country under several different legislative authorities. Burma is listed as a major drug-producing state, and because of its insufficient effort to combat the narcotics trade, the country is barred access to some U.S. foreign assistance.⁴⁵ As an uncooperative, major drug-producing state, Burma is also subject to trade sanctions.⁴⁶ In 2005, the Department of Justice indicted eight Burmese individuals identified in 2003 by the U.S. Treasury’s Office of Foreign Assets Control for their alleged role in drug trafficking and money laundering.⁴⁷

⁴² Pursuant to 31 U.S.C. 5318A, as added by Section 311 of the USA PATRIOT Act (P.L. 107-56), these countermeasures prohibited U.S. banks from establishing or maintaining correspondent or payable-through accounts in the United States for or on behalf of Myanmar Mayflower and Asia Wealth Bank and, with narrow exceptions, for all other Burmese banks. See 2007 *International Narcotics Control Strategy Report*, vol. 2, *op cit*.

⁴³ Patrick M. Jost and Harjit S. Sandhu, *The Hawala Alternative Remittance System and its Role in Money Laundering* (Lyon, France: Interpol General Secretariat, 2000).

⁴⁴ Notable sanctions among those not specifically related to international crime include the Burmese Freedom and Democracy Act of 2003 (P.L. 108-61, extended by P.L. 108-272 and P.L. 109-39); Executive Order 13047, issued May 20, 1997, under Section 570 of the Foreign Appropriations Act, 1997 (P.L. 104-208); and Executive Order 13310, issued July 28, 2003, to implement P.L. 108-61 (the President announced additional modifications September 25 and 27, 2007). See also CRS Report RS22737, *Burma Sanctions: Background and Options*, by Larry A. Nicksch and Martin A. Weiss.

⁴⁵ Pursuant to Section 489(a)(1) of the Foreign Assistance Act of 1961, as amended.

⁴⁶ Trade sanctions are pursuant to the Narcotics Control Trade Act (19 U.S.C. 2491-2495) and the Customs and Trade Act of 1990 (P.L. 101-382).

⁴⁷ The indictments were made using the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901-1908). The indicted Burmese have yet to be arrested or brought to trial in the (continued...)

Burma is characterized by the State Department's 2007 Trafficking in Persons report as a Tier 3 state engaged in the most severe forms of trafficking in persons; as such, Burma is subject to sanctions, barring the country from non-humanitarian, non-trade-related U.S. assistance and loss of U.S. support for loans from international financial institutions.⁴⁸ As a major money laundering country — defined by Section 481(e)(7) of the Foreign Assistance Act of 1961, as amended, as one “whose financial institutions engage in currency transactions including significant amounts of proceeds from international narcotics trafficking” — Burma is subject to several “special measures” to regulate and monitor financial flows. These include Department of Treasury advisories for enhanced scrutiny over financial transactions, as well as five special measures listed under 31 U.S.C. 5318A.⁴⁹ The United States does not apply sanctions against Burma in specific response to its activity in other illicit trades, including wildlife.⁵⁰ The Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2007 (H.R. 3890), however, would prohibit the importation of gems and hardwoods from Burma, among other restrictions.⁵¹

After more than a decade of applying sanctions against Burma, however, many analysts have concluded that the sanctions have done little to change the situation. The effectiveness of U.S. sanctions is limited by several factors.⁵² These include (1) unevenly applied sanctions against Burma by other countries and international organizations, including the European Union and Japan; (2) a booming natural gas production and export industry that provides the SPDC with significant revenue; (3) continued unwillingness of Burma's fellow members in the Association of Southeast Asian Nations (ASEAN) to impose economic sanctions against Burma; (4) Burma's historical isolation from the global economy; and (5) China's continued economic and military assistance to Burma. In addition, some analysts suggest that sanctions

⁴⁷ (...continued)

United States.

⁴⁸ Sanctions are pursuant to the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386). The decision to apply sanctions under P.L. 106-386 is left to presidential discretion.

⁴⁹ These include (1) record-keeping and reporting of certain financial transactions, (2) collection of information relating to beneficial ownership, (3) collection of information relating to certain payable-through accounts, (4) collection of information relating to certain correspondent accounts, and (5) prohibition or conditions on the opening or maintaining of correspondent or payable-through accounts for a foreign financial institution. See Douglas N. Greenburg, John Roth, and Katherine A. Sawyer, “Special Measures under Section 311 of the USA PATRIOT Act,” *The Review of Banking and Financial Services*, vol. 23, no. 6, June 2007.

⁵⁰ Notably, President Bill Clinton in 1994 used the 1971 Pelly Amendment to the Fishermen's Protective Act of 1967, as amended (22 U.S.C. 1978), as a means by which to impose sanctions against Taiwan for its alleged insufficient progress toward eliminating the country's illegal trade in rhino and tiger parts and products. The sanction temporarily banned the importation of certain fish and wildlife products from Taiwan.

⁵¹ Last major action to H.R. 3890: passed Senate with an amendment and an amendment to the Title on December 19, 2007.

⁵² See CRS Report RL33479, *op cit.*

are, in part, culpable for the flourishing black markets in Burma, including trafficking in humans, gems, and drugs, because legal exports are barred.⁵³ Several analysts indicate that many Burmese women who lost their jobs in the textile industry as a result of Western sanctions are among the victims of trafficking for sexual exploitation.⁵⁴

Regional Border Control Assistance

The United States is assisting neighboring countries with stemming the flow of trafficked contraband from Burma into their territories. Although most U.S. assistance to combat transnational crime in Burma remains in suspension, the United States is working to train law enforcement and border control officials in neighboring countries through anti-crime assistance programs.⁵⁵ Currently, the bulk of funding to Burma's neighbors remains concentrated in counter-narcotics and anti-human trafficking projects; no funding is allocated to the State Department for combating "organized and gang-related crime" in the region. Overall funding to combat trafficking has been in decline for several years; the Administration's FY2008 appropriations request for Foreign Operations in the region represents a 24.2% decrease from FY2006 actual funding.

A New Approach?

Despite Burma's recent progress in reducing opium poppy cultivation, most experts believe U.S. policies have not yielded substantial leverage in combating transnational crime emanating from Burma. In light of the most recent displays of junta violence against political demonstrators in September 2007, however, there are indications of increasing political interest in re-evaluating U.S. policy toward Burma. Among the considerations that policy makers have recently raised are (1) whether the United States should increase the amount of humanitarian aid sent to Burma; (2) what role ASEAN and other multilateral vehicles for dialogue could play in increasing political pressure on the junta regime; (3) what role the United States sees India, as the world's largest democracy and Burma's neighbor, playing in ensuring that Burma does not become a source of regional instability; and (4) how the United States can further work with China and Thailand, as the largest destinations of trafficked goods from Burma, to address transnational crime along Burma's borders.

⁵³ Fareed Zakaria, "Sleepwalking to Sanctions, Again," *Newsweek*, October 15, 2007.

⁵⁴ See, for example, "U.S. Sanctions 'Hit Burma Hard,'" *BBC News*, October 3, 2003.

⁵⁵ Under authorities granted in Section 2291 of the Foreign Assistance Act of 1961, as amended, the State Department is responsible for coordinating foreign assistance and law enforcement training for counter-narcotics and anti-crime programming. According to the Administration's FY2008 Foreign Operations Budget Justification, such programs exist in four of Burma's neighbors: Thailand, Laos, India, and Bangladesh.

Figure 2. Map of Burma



Source: Map Resources. Adapted by CRS.