

CRS Report for Congress

Cyclone Nargis and Burma's Constitutional Referendum

May 9, 2008

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**Prepared for Members and
Committees of Congress**

Report Documentation Page				Form Approved OMB No. 0704-0188	
Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.					
1. REPORT DATE 09 MAY 2008		2. REPORT TYPE		3. DATES COVERED 00-00-2008 to 00-00-2008	
4. TITLE AND SUBTITLE Cyclone Nargis and Burma's Constitutional Referendum				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Congressional Research Service, The Library of Congress, 101 Independence Ave, SE, Washington, DC, 20540-7500				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution unlimited					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT Same as Report (SAR)	18. NUMBER OF PAGES 23	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			

Cyclone Nargis and Burma's Constitutional Referendum

Summary

Cyclone Nargis struck the coast of Burma in the evening of May 2, 2008 and cut a path of destruction across the southern portion of the country. The storm left in its wake at least 22,000 dead, 41,000 more missing, and extensive damage to the nation's premier agricultural areas. Some have speculated that the final number of dead could reach 100,000. Vital infrastructure was destroyed by the storm, severely limiting the ability to assess the loss of life and provide assistance to the survivors. In addition, much of Burma's most productive agricultural land has been severely damaged; some experts expect that it will take up to two years for Burma's production of rice, seafood, pork and poultry to recover, and that the nation may face chronic food shortages and the need for international assistance for many months.

Burma's ruling military junta quickly faced both domestic and international criticism for its response to Cyclone Nargis, including accusations that it failed to provide adequate warning, its slow emergency response, and its reluctance to allow international relief workers into the country. The United States has offered \$3.25 million in relief aid, and is willing to send in relief teams, if they can secure the necessary visas from the junta.

Even before Cyclone Nargis struck, the junta was already facing a highly controversial referendum on a proposed constitution scheduled for May 10, 2008 that could shape U.S. and other countries' policies toward Burma. As a consequence, the evolution and implications of the humanitarian crisis are inextricably linked to Burma's political situation and its relations with the international community. In a widely criticized move, although the military junta decided to postpone the vote for two weeks in some of the more damaged areas of Burma, it indicates it still intends to hold the constitutional referendum in most of Burma on May 10, 2008. Critics have called for the cancellation or postponement of the vote for all of Burma.

In addition, some experts are speculating that Cyclone Nargis may precipitate major political change in Burma, including the destabilization of Burma's military regime. The junta was already under domestic and international pressure to cancel the constitutional referendum. Local dissatisfaction with the speed and quality of the junta's provision of emergency assistance may heighten domestic opposition to the junta and its proposed constitution. Also, rising food prices and food shortages may feed popular discontent, much like fuel price increases led to protests in Burma of September 2007.

This report examines the scope of and response to the disaster, as well as its links to Burma's political situation and U.S. policy.

The report will be updated as circumstances warrant.

Contents

Introduction	1
The Effects of Cyclone Nargis	1
Damage	2
Criticism of the SPDC's Response	3
Humanitarian Response	4
Overall Conditions and Access	4
Responsibility to Protect	5
Conditions on the Ground	6
International Response	6
Pledges of Aid and Assistance	6
Status of the Relief Operation	7
U.S. Response	8
The U.S. Emergency Response Mechanism	10
Constitutional Referendum	11
Background	11
U.S. Policy towards Burma	13
Burma-Related Legislation in the 110th Congress	15
Issues for Congress	16
Humanitarian Assistance	16
Relief Operation and Political Developments	16
Competing Aid and Budget Priorities	16
Constitutional Referendum	17
Long-Term Food Shortages	18
Potential Political Instability	18

List of Figures

Figure 1. Map Areas of Burma Flooded by Cyclone Nargis	20
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List of Tables

Table 1. International Aid Pledges	6
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Cyclone Nargis and Burma's Constitutional Referendum

Introduction

Around 6:30 p.m. (local time) on May 2, 2008, Cyclone Nargis, a category 3 cyclone,¹ made landfall in the Irrawaddy (Ayeyarwady) Division of Burma, and then moved across the country from west to east, striking Burma's largest city, Rangoon, with winds of up to 190 kph (see **Figure 1**).² The disaster struck just a week before the Burmese people were to vote on a proposed new constitution and just the day after President Bush announced an Executive Order tightening trade and economic sanctions. The scale of the disaster will require a major relief effort that is thought to be well beyond the response capacity of the authorities in Burma. Several days after the cyclone, the State Protection and Democracy Council (SPDC) indicated that it would accept offers of assistance from the international community. Despite aid pledges worth more than \$32 million, most aid agencies have still not been granted visas for their relief workers, essentially hampering a full-scale immediate relief effort. These factors — a devastating natural disaster and lack of access by the international humanitarian community — combined with a controversy over the impending constitutional referendum, have the potential to foster significant political change within Burma. Congress faces several issues with respect to Burma in dealing with both the direct impact of Cyclone Nargis and its potential indirect effects on Burmese politics.

The Effects of Cyclone Nargis

In addition to Rangoon, sources in Burma reported significant damage to the Bago, Irrawaddy, Karen, and Mon regions of Burma. The State Peace and Development Council (SPDC) quickly announced a state of emergency in the five regions, but on May 6, 2008, lifted the state of emergency for much of the area struck

¹ Tropical storms in the Indian Ocean are generally referred to as cyclones, whereas tropical storms in the western Pacific Ocean are referred to as typhoons and in the eastern Pacific Ocean and the Atlantic Ocean, they are called hurricanes. A category 3 cyclone has "very destructive" winds with gusts of 170 - 225 km/h (105 - 141 mph).

² In July 1989, the then State Law and Order Restoration Council (SLORC), now the SPDC, changed the country's name from Burma to Myanmar, as well as the names of many of its cities and districts. The United Nations (and others) recognized the name change, while the United States, Australia, and some European countries did not. Many of Burma's opposition groups boycott the name change as a form of protest against the SPDC. This report will in general use the names currently used by the U.S. government.

by the cyclone. As of May 7, 2008, only seven townships in the Irrawaddy Division and 40 townships in Yangon Division were declared emergency disaster zones.³

Initial reports estimated the death toll at 351, but that estimate quickly rose to 4,000 people, then 15,000, and then later to over 22,500 people, with 41,000 people reported as missing.⁴ Due to the extensive damage to the nation's transportation and communications systems, however, information about the disaster is proving difficult to gather and confirm. Burma's Foreign Minister Nyan Win indicated at a press conference that the death toll could rise as more information becomes available.⁵ An unnamed aid agency reportedly expects the final death toll could reach 50,000.⁶ An unnamed U.S. envoy in Burma told reporters on May 7, 2008 that the death toll could reach 100,000.⁷ Most of the deaths were reportedly due to a 3.5 meter (11.5 feet) storm surge that swept across the affected areas after the eye of the cyclone passed.⁸

Damage

In addition to the loss of life, the cyclone also caused extensive damage to much of Burma. A significant percentage of the houses, hospitals and other buildings in storm-affected regions were damaged or destroyed. U.N. aid officials say that the storm left several hundred thousand people homeless.⁹ In the coastal islands along the Irrawaddy River, entire villages were reportedly destroyed. Electricity was knocked out in Rangoon and much of the other four areas struck by the storm. Most of the potable water and water treatment facilities in the affected areas were disrupted or were not operational. Many of the roads and bridges along the cyclone's path were damaged or blocked by felled trees and debris. The nation's telecommunications system — including telephone and internet service — was disrupted. The World Health Organization (WHO) has stated that they are particularly concerned about potential health problems — such as malaria and cholera — that could emerge in the aftermath of the cyclone's flooding.¹⁰

³ Ed Cropley, "Myanmar Lifts Emergency in Some Cyclone-hit Areas," Reuters, May 7, 2008.

⁴ "Hundreds Killed by Burma Cyclone," BBC News, May 4, 2008; Aye Aye Win, "Nearly 4,000 People Dead; 3,000 People Missing," Associated Press, May 5, 2008; "Burmese Storm Toll 'Tops 10,000,'" BBC News, May 5, 2008; "Burma's Cyclone Death Toll Soars," BBC News, May 6, 2008, and Aung Hla Tun, "Myanmar Cyclone Toll Climbs to Nearly 22,500," Reuters, May 6, 2008.

⁵ "Burmese Storm Toll 'Tops 10,000,'" BBC News, May 5, 2008.

⁶ "Deluged Burma Told to Expect 50,000 Dead," Reuters and AFP, reprinted by the *Hong Kong Standard*, May 7, 2008.

⁷ "Aid Arriving in Cyclone-hit Burma," BBC News, May 7, 2008.

⁸ Ibid.

⁹ Aung Hla Tun, "Myanmar Cyclone Toll Climbs to Nearly 22,500," Reuters, May 6, 2008.

¹⁰ WHO Alert, "Cyclone Nargis Myanmar," May 6, 2008.

There is some speculation that the damage done by the cyclone was worsened by the removal of mangrove forests in the past along Burma's coastal areas.¹¹ In Burma, mangrove forests have been destroyed to build shrimp and fish farms. According to research by the International Union for the Conservation of Nature (IUCN), the preservation of Sri Lanka's coastal mangrove forests saved many lives when the 2004 tsunami struck.¹² Based on the research in Sri Lanka, some experts maintain that Cyclone Nargis would have done less damage in Burma if the mangrove forests had not been removed.

The areas of Burma most severely damaged by the cyclone were also a major source of food for the nation, particularly rice, seafood, pork, and poultry. According to the U.N. Food and Agricultural Organization (FAO) the five states struck by Cyclone Nargis provided Burma with 65 percent of its rice, 80 percent of its aquaculture, 50 percent of its poultry, and 40 percent of its pigs¹³ An expert specializing in Burma's economy anticipates "incredible [food] shortages in the next 18 to 24 months."¹⁴

Criticism of the SPDC's Response

In the immediate aftermath of the cyclone, a spokesperson for the ruling junta in Burma, the SPDC indicated its willingness to accept international assistance.¹⁵ However, various international organizations have reported that SPDC officials have not responded to offers for assistance.

In addition, there reportedly has been widespread criticism about how the military junta has managed the disaster. According to the Burma Campaign-UK, the SPDC did not issue a warning to the people living along the path of Cyclone Nargis that the storm was approaching.¹⁶ A back page article that appeared in the junta-run newspaper, *The New Light of Burma*, the day the cyclone struck reported that a "severe cyclonic storm" was forecast to reach the coast of Burma within the next 36 hours, and "under the influence of this storm, rain or thunderstorms will be widespread."¹⁷ Meteorologists in India say that they gave Burma 48 hours warning before Cyclone Nargis hit the country, including where and when landfall would

¹¹ Mark Kinver, "Mangrove Loss 'Left Burma Exposed,'" BBC News, May 6, 2006

¹² "Mangrove Forests Saved Lives in 2004 Tsunami Disaster," IUCN, press release, December 19, 2005.

¹³ Michael Casey, "Burma's Rice Region Decimated — Food Shortage Feared," *Irrawaddy*, May 7, 2008.

¹⁴ *Ibid.*

¹⁵ "Burmese Storm Toll 'Tops 10,000,'" BBC News, May 5, 2008.

¹⁶ Wai Moe, "Cyclone Could Unleash Political Upheaval," *Irrawaddy*, May 5, 2008.

¹⁷ "Storm News," *The New Light of Myanmar*, May 5, 2008, p. 15.

occur.¹⁸ However, SPDC-run television issued a statement that, “[t]imely weather reports were announced and aired through television and radio in order to keep the people safe and secure nationwide.”¹⁹ Many people in Burma reportedly maintain that the state media notices failed to indicate the severity of the approaching storm or provide instructions on how to prepare for the cyclone’s arrival.²⁰ In the first few days after the cyclone struck, there were also reports that the SPDC focused its relief and rescue efforts to areas where SPDC officials and military personnel lived and worked, and offered little or no assistance to the general population.²¹

There has also been criticism of the SPDC’s failure to prevent disaster profiteering by merchants of essential items, such as food and fuel. The pro-opposition news magazine, *Irrawaddy*, reported that “many commodity prices — including vegetables and eggs — instantly increased 100 percent following the aftermath of Cyclone Nargis....”²² According to other reports, food prices had reportedly risen three and four times what they were before the cyclone struck by May 6, 2008.²³

The SPDC is also being criticized for delaying the entrance of international relief organizations into Burma. According to an article in the *Irrawaddy*, the SPDC views international relief agencies as “neocolonialist tools.”²⁴ In April 2008, for instance, the SPDC-run newspapers accused the International Red Cross of supporting rebel groups in Burma’s Karen state.²⁵ Burmese political analyst Aung Naing Oo also thinks the military junta does not want large numbers of international aid workers entering Burma so close to the vote on the constitutional referendum.²⁶

Humanitarian Response

Overall Conditions and Access

In a break with past practices, several days after the cyclone, the SPDC indicated that it would accept offers of assistance from the international community, though it is also reported that the SPDC has not “officially endorsed” international assistance

¹⁸ “Deluged Burma Told to Expect 50,000 Dead,” Reuters and AFP, reprinted by the *Hong Kong Standard*, May 7, 2008.

¹⁹ Steve Jackson, “Was Burma’s Cyclone Predicted?,” BBC News, May 6, 2008.

²⁰ Ibid.

²¹ Aye Aye Win, “Nearly 4,000 People Dead; 3,000 People Missing,” Associated Press, May 5, 2008.

²² Saw Yan Nain, “Commodity Prices Rise in Devastated Rangoon, *Irrawaddy*, May 3, 2008.

²³ Aung Hla Tun, “Myanmar cyclone toll climbs to nearly 22,500,” Reuters, May 6, 2008.

²⁴ Wai Moe, “Cyclone Could Unleash Political Upheaval,” *Irrawaddy*, May 5, 2008.

²⁵ Ibid.

²⁶ Ibid.

and would prefer bilateral arrangements.²⁷ The SPDC said it would allocate \$5 million for relief activities. Military and police units are conducting rescue and recovery operations, but the scale of the disaster will require a major relief effort that is thought to be well beyond their capacity.²⁸

Despite pledges of cash, supplies, and assistance from around the world, as of May 8, most aid agencies had still not been granted visas to enter Burma and there was no word on when visas might be issued. The United Nations and the broader aid community have been assembling staff in Bangkok, Thailand, who are poised for deployment. By mid week, a few aid workers had been allowed in to Burma. Customs clearance of relief materials is also a problem.²⁹

According to the United Nations, the SPDC has appointed a minister to review the visa applications of foreign aid workers. And the visa issue was reportedly being raised at high levels within the United Nations. Aid agencies continue to explore options for obtaining visas.

Responsibility to Protect. France's foreign minister reportedly suggested that the international community should deliver aid without waiting for approval from Burma and do so under the U.N. resolution on the Responsibility to Protect, which speaks to the obligations of a state to protect its own people and the obligations of all states to do so when that fails.³⁰ On the one hand, some observers are arguing that the Burmese government is a threat to its own people and that Burma is violating its responsibility to protect its own citizens in the wake of the current disaster. On the other hand, others question whether forcing the Burmese government to accept international assistance should fall under the Responsibility to Protect resolution. From this perspective, as sovereign power, the SPDC is in charge of the aid efforts and the United Nations (and others in the international aid community) should work to support the SPDC aid effort as much as possible. So far, the United Nations has said that it does not think approaching the government in what could be seen as a confrontational manner would be helpful and that it might undermine the

²⁷ United Nations Joint Logistics Centre (UNJLC), "Cyclone Nargis - Latest Updates," May 6, 2008.

²⁸ U.N. Office for the Coordination of Humanitarian Affairs (UNOCHA), "Myanmar: Cyclone Nargis OCHA Situation Report No. 3," May 6, 2008.

²⁹ U.N. Department of Public Information, "Press Conference on Myanmar Humanitarian Situation," May 6, 2008 and "Press Conference on Myanmar Humanitarian Situation," May 7, 2008; UNOCHA, "Myanmar: Offers of Help Face Logistics and Visa Hurdles," May 6, 2008; and United Kingdom, Department for International Development (DFID), "Burma - What is the Current Situation?" May 8, 2008.

³⁰ "France Suggests Helping Myanmar Without Govt Backing," Reuters Foundation, May 7, 2008; At the 2005 U.N. World Summit, the "Responsibility to Protect" resolution was approved, putting forward the idea that each state has a responsibility to protect its people from genocide, war crimes, ethnic cleansing and crimes against humanity and that human rights violations committed in one state are the concern of all states. It is an agreement in principle that speaks to the obligations of a state to protect its own people and the obligations of all states when that fails, but this U.N. Resolution does not make action easy or even probable.

start of more constructive discussions, particularly as progress, albeit small, has been made in recent days. The U.N. Security Council has reportedly decided not to take up a discussion of the humanitarian crisis for the time being.

Conditions on the Ground. Other access issues created by the cyclone's devastation include a general lack of transportation, blocked roads, poor communications systems, damaged infrastructure, and the difficulty of reaching remote areas and isolated parts of the country. Lack of electricity and clean water are anticipated to be a major problem. Fuel shortages have also been reported. It is estimated that more than 1 million people may have been affected by the disaster, but it is unclear how many may be in need of assistance. The combined total population in the affected areas is believed to be 24 million people. Immediate needs include plastic sheeting, water purification equipment, cooking sets, mosquito nets, emergency health kits and food. According to the Thailand Burma Border Consortium (TBBC), the refugee camps along the border in Thailand have not been directly affected by the cyclone, although areas have had some flooding.

International Response

Pledges of Aid and Assistance. So far, the international community has pledged more than \$32 million of aid and technical support. Some donors have indicated they are concerned about transparency and how the SPDC would use the money.

The U.N. country team is developing a Flash Appeal for emergency financial assistance. It delayed its release with the hope that it could obtain a more accurate assessment of the impact and needs on the ground. The U.N.'s Central Emergency Response Fund (CERF) will also make available \$10 million for projects identified by the country team.³¹ Contributions and in-kind pledges are listed in the table below.

Table 1. International Aid Pledges
(In U.S. \$ Equivalent, as of May 8, 2008)

Country	Pledges	In-Kind Pledge (estimated value)	Recipient
Australia	\$2.8 million		aid agencies
Canada	\$1.98 million		United Nations, Red Cross Movement and World Food Program
China	\$500,000	tents, blankets, and biscuits (\$500,000)	

³¹ United Nations Department of Public Information, "Press Conference on Myanmar Humanitarian Situation," May 6, 2008.

Country	Pledges	In-Kind Pledge (estimated value)	Recipient
Czech Republic	\$230,000		
France	\$320,000		Red Cross and French aid agencies
Germany	\$775,000		German aid organizations
Greece	\$300,000	plane with supplies	
India		2 naval ships with supplies	
Indonesia	\$1 million	food and other humanitarian aid	
Japan	\$267,570	tents, power generators, other supplies	
Netherlands	\$320,000		
New Zealand	\$394,000		aid agencies/United Nations
Norway	\$2 million		
Singapore	\$200,000	rescue and medical teams	
South Korea	\$100,000	aid materials	
Spain	\$775,000		WFP
Sri Lanka	\$25,000		direct to Burmese government
Sweden		generators/other equipment	United Nations
Thailand		transport plane with food and medicine (\$100,000)	
United Kingdom	\$10 million	emergency field team	
United States	\$3.25 million	USAID Disaster Assistance Response Teams (DARTs)	
ASEAN	\$100,000		
European Commission	\$3 million		

Source: Reuters Foundation, “Factbox - Almost \$30 million in Aid for Cyclone-Ravaged Myanmar,” May 7, 2008.

Status of the Relief Operation. According to the U.N. Office for the Coordination of Humanitarian Assistance (UNOCHA), U.N. teams on the ground — which includes the WFP, the U.N. High Commissioner for Refugees (UNHCR), the U.N. Children’s Fund (UNICEF) and the U.N. Development Program (UNDP) — are deploying assessment teams and providing some assistance. U.N. staff include local Burmese who are not subject to travel restrictions. There are some stockpiles inside

the country, and WFP has distributed relief supplies and food stored in Rangoon. UNHCR has also distributed basic supplies and used shelter materials from warehouses in Thailand. Humanitarian relief sectors are also being organized. Various international NGOs that were already operating in Burma before the cyclone are responding to the crisis and beginning to have some access to affected areas.

The United Nations has organized a five-person Disaster Assessment and Coordination Team(UNDAC), four of whom were approved by the SPDC to enter the country. The main international airport in Rangoon has reopened and four WFP flights have reportedly been approved and cleared. One emergency flight with food aid arrived on May 8. Another has landing rights in Rangoon and is currently in Dhaka. The third, also cleared to land in Burma, is expected to leave Dubai on May 8. The fourth, organized through the U.N. Humanitarian Response Depot (UNHRD), which is managed by the World Food Program (WFP), got approval from the SPDC to send an aid flight with emergency supplies provided by Italy. The flight is expected to depart from Brindisi, Italy and travel to Rangoon on or about May 9. An OCHA team is expected to accompany the flight. It has been reported that the relief supplies from two flights were seized at the Rangoon airport on May 9 and the status of U.N. aid flights is now uncertain.³² The United Nations country team continues to work with government ministries, including the Ministry for Foreign Affairs, on how to provide assistance.

The International Federation of the Red Cross and Red Crescent Societies (IFRC) estimates that about 1 million people living in the Irrawaddy River delta were directly affected by Cyclone Nargis. The IFRC is working with the Myanmar Red Cross (MRC) to provide emergency shelter and clean water to the cyclone survivors. Its initial allocation to the MRC for the relief effort is 200,000 Swiss francs (\$189,000) to distribute clean drinking water, plastic sheeting, clothing, bed netting, and kitchen supplies. The IFRC has also launched a preliminary emergency appeal for Burma for \$5.9 million. The IFRC is coordinating efforts with the International Committee of the Red Cross (ICRC) to support the MRC.

U.S. Response

The U.S. Embassy in Burma announced on May 5, 2008 that it had issued a disaster declaration and authorized \$250,000 in humanitarian assistance.³³ This initial contribution was allocated to implementing partners (UNICEF, WFP and UNHCR) for water and sanitation, emergency food assistance, and shelter. The embassy also issued a travel warning, and authorized the departure of non-emergency U.S. citizen embassy employees and eligible family members.

On May 6, White House Press Secretary Dana Perino announced that the Administration would provide an additional \$3 million in aid for Burma for a total pledge of \$3.25 million, \$1 million of which will be allocated to the American Red Cross (ARC). It was initially reported that release of U.S. assistance was conditional

³² “UN: Myanmar Seizing Aid Flights,” CNN, May 9, 2008.

³³ “Myanmar Death Toll ‘More than 10,000,’” CNN, May 5, 2008.

on the SPDC allowing a U.S. Disaster Assistance Response Team (DART) into the country.³⁴ This was later denied by Scott Marciel, U.S. Ambassador for ASEAN Affairs.³⁵ According to a State Department spokesperson, the funds would be allocated to implementing partners and used for emergency materials (such as shelter, food, water and other basic assistance). President Bush also indicated that the United States was prepared to use U.S. Navy assets for search and rescue and other logistical assistance. The U.S. Navy currently has three ships in the Gulf of Thailand and two aircraft carrier groups in the vicinity that could be dispatched to Burma. After receiving permission to fly in relief supplies through the Thai military on May 8, a U.S. cargo plane (C-130) carrying aid provisions was cancelled. The U.S. Ambassador to Thailand did not know if this was due to miscommunication or a withdrawal by the SPDC.³⁶ A ten-person USAID-DART has been assembled in Bangkok.³⁷

On May 6, 2008, the Office of Foreign Asset Control of the U.S. Department of the Treasury issued General License No. 14 to allow certain financial transactions in support of humanitarian or religious activities by non-governmental organizations in Burma.³⁸ Under current U.S. federal law, it is illegal to export financial services to Burma, including the transfer of funds to Burma. Under General License No. 14, the U.S. government and humanitarian organizations may transfer funds legally to Burma to provide cyclone disaster relief.

At a press briefing on May 5, First Lady Laura Bush claimed that “many of the Burmese people learned of this impending disaster only when foreign outlets — such as Radio Free Asia and Voice of America — sounded the alarm.”³⁹ She indicated that additional U.S. assistance was likely if the SPDC was willing to accept additional international assistance.⁴⁰

Some Burmese analysts criticized the First Lady and the U.S. government for its initial statements that appeared to condition U.S. assistance on the SPDC allowing U.S. DARTs into Burma. “The U.S. First Lady’s political demands were inappropriate,” said Burmese political analyst Aung Naing Oo, “This is a time when

³⁴ “U.S. Provides \$3.25 Million to Aid Burma Cyclone Victims: Bush Says the United States Could Do More if Burma Government Permits,” May 6, 2008.

³⁵ “Interview with Veronica Pedrosa of Al-Jazeera English,” May 7, 2008.

³⁶ “U.S. Aid Flight to Burma Cancelled,” news.com.au, May 8, 2008.

³⁷ Interaction, the umbrella coalition of more than 150 humanitarian organizations providing humanitarian assistance and sustainable development programs worldwide, has also developed a list of agencies responding to this disaster (InterAction, “Interaction Members Respond to Cyclone in Burma,” May 6, 2008. See [<http://www.interaction.org/burma>]).

³⁸ Office of Foreign Assets Control, U.S. Department of the Treasury, General License No. 14, May 6, 2008; available online at [<http://www.treas.gov/offices/enforcement/ofac/programs/burma/gls/burmagl14.pdf>].

³⁹ “Mrs. Bush’s Statement on Burma,” Office of the First Lady, White House, May 5, 2008.

⁴⁰ Ibid.

people are dying and suffering to a horrible degree, so if the US really wants to help, it can help without making political demands.”⁴¹

The U.S. Emergency Response Mechanism

The United States is generally a leader and major contributor to relief efforts in response to humanitarian disasters. The President has broad authority to provide emergency assistance for foreign disasters and the U.S. government provides disaster assistance through several U.S. agencies. The very nature of humanitarian disasters — the need to respond quickly in order to save lives and provide relief — has resulted in a rather unrestricted definition of what this type of assistance consists of at both a policy and an operational level. While humanitarian assistance is assumed to provide for urgent food, shelter, and medical needs, the agencies within the U.S. government providing this support typically expand or contract the definition in response to circumstances. Funds may be used for U.S. agencies to deliver services or to provide grants to international organizations (IOs), international governmental and non-governmental organizations (NGOs), and private or religious voluntary organizations (PVOs). USAID is the U.S. government agency charged with coordinating U.S. government and private sector assistance. It also coordinates with international organizations, the governments of countries suffering disasters, and other governments.

The Office of Foreign Disaster Assistance (OFDA) in USAID’s Bureau of Humanitarian Response provides immediate relief materials and personnel, many of whom are already abroad on mission. It is responsible for providing non-food humanitarian assistance and can quickly assemble DARTs to assess conditions. OFDA has wide authority to borrow funds, equipment, and personnel from other parts of USAID and other federal agencies. USAID has two other offices that administer U.S. humanitarian aid: Food For Peace (FFP) and the Office of Transition Initiatives (OTI). USAID administers emergency food aid under FFP (Title II of P.L. 480) and provides relief and development food aid that does not have to be repaid. OTI provides post-disaster transition assistance, which includes mainly short-term peace and democratization projects with some attention to humanitarian elements but not emergency relief.

The Department of Defense (DoD) Overseas Humanitarian, Disaster and Civic Aid (OHDACA) funds three DoD humanitarian programs: the Humanitarian Assistance Program (HAP), Humanitarian Mine Action (HMA) Program, and Foreign Disaster Relief and Emergency Response (FDR/ER). OHDACA provides humanitarian support to stabilize emergency situations and deals with a range of tasks including providing food, shelter and supplies, and medical evacuations. In addition the President has the authority to draw down defense equipment and direct military personnel to respond to disasters. The President may also use the Denton program to provide space-available transportation on military aircraft and ships to

⁴¹ Violet Cho, “Laura Bush Comments ‘Inappropriate’ Says Analyst,” *Irrawaddy*, May 6, 2008.

private donors who wish to transport humanitarian goods and equipment in response to a disaster.⁴²

Generally, OFDA provides emergency assistance for 30 to 90 days after a disaster. The same is true for Department of Defense humanitarian assistance. After the initial emergency is over, assistance is provided through other channels, such as the regular country development programs of USAID.

The State Department also administers programs for humanitarian relief with a focus on refugees and the displaced. The Emergency Refugee and Migration Account (ERMA) is a contingency fund that provides wide latitude to the President in responding to refugee emergencies. Assistance to address emergencies lasting more than a year comes out of the regular Migration and Refugee Account (MRA) through the Population, Migration and Refugees (PRM) bureau. PRM assists refugees worldwide, conflict victims, and populations of concern to the United Nations High Commissioner for Refugees (UNHCR), often extended to include internally displaced people (IDPs). Humanitarian assistance includes a range of services from basic needs to community services.

Constitutional Referendum

The cyclone struck one week before the people of Burma were to vote on a new constitution that potentially is the most significant political development in Burma since the military seized power in 1988. In the first few days following the natural disaster, the SPDC said it would proceed with the vote as scheduled on May 10, 2008. The May 5, 2008 edition of the SPDC-run newspaper, the *Myanma Ahlin*, stated, "It's only a few days left before the coming referendum and people are eager to cast their vote."⁴³ However, on May 6, 2008, the SPDC announced that the vote on the proposed constitution would proceed as planned in most of Burma, but that the vote would be delayed until May 24, 2008 for most of the townships around Rangoon and in seven of the townships in the Irrawaddy region.⁴⁴

Background. After Cyclone Nargis caused widespread flooding in Burma, opposition to holding the referendum as scheduled arose from many sources. A May 5 editorial in the *Irrawaddy* stated, "The response by the Burmese regime to this weekend's cyclone disaster shows that the junta is incapable of running the country,

⁴² Section 402 of Title 10, named after former Senator Jeremiah Denton, authorizes shipment of privately donated humanitarian goods on U.S. military aircraft provided there is space and they are certified as appropriate for the disaster by USAID/OFDA. The goods can be bumped from the transport if other U.S. government aid must be transported.

⁴³ Aye Aye Win, "Nearly 4,000 People Dead; 3,000 People Missing," Associated Press, May 5, 2008.

⁴⁴ Jocelyn Gecker, "Vote Delayed in a Few Worst Cyclone-hit Areas but the Rest Will Go Ahead," Associated Press, May 6, 2008.

let alone helping the victims.”⁴⁵ The editorial called for the postponement of the referendum as have other voices within the Burmese opposition movement. A representative of the opposition-run media group, the Democratic Voice of Burma, said, “They [the SPDC] would be very stupid to go ahead with the it. Thousands of people are dying or missing. It is very difficult to get around or get food and water. How can people vote?”⁴⁶

On February 9, 2008, the SPDC issued an announcement stating, “in accordance with the fourth step of the seven-step Road Map, the approval of the Constitution draft will be sought in a National Referendum to be held in May 2008.”⁴⁷ On the same date, the SPDC released a second announcement, which states, “In accordance with the forthcoming State Constitution, the multi-party democracy [sic] general elections will be held in 2010.”⁴⁸

According to the SPDC Chairman, Senior General Than Shwe, Burma’s military did not “crave for power,” and that its “ultimate aim is to hand over the state power to the people.”⁴⁹ As Than explained in his speech on Myanmar’s 63rd Armed Forces Day on March 27, 2008, the military was “compelled” to assume state responsibilities due to “unavoidable circumstances.”⁵⁰ Than also indicated that the referendum on the draft constitution was consistent with the SPDC’s “seven-step roadmap” for the return of civilian rule.⁵¹

Ever since the SPDC announced that a referendum on the proposed constitution would be held, it has run slogans in its newspapers, such as, “To approve the State Constitution is a national duty of the entire people today. Let us all cast ‘Yes’ vote in the national interest.”⁵²

Access to the actual text of the draft constitution was at first limited. Photocopies and electronic copies were secretly circulated among journalists, senior

⁴⁵ “Referendum Must Take Second Place Now in Regime Priorities,” *Irrawaddy*, May 5, 2008.

⁴⁶ “Myanmar Death Toll ‘More than 10,000,’” CNN, May 5, 2008.

⁴⁷ State Peace and Development Council, Announcement No. 1/2008, February 9, 2008, available at [<http://www.mewashingtondc.com/Myanmar%20Govt%20Announcement%20No%201%20&%202%20of%202008.pdf>].

⁴⁸ State Peace and Development Council, Announcement No. 2/2008, February 9, 2008, available at [<http://www.mewashingtondc.com/Myanmar%20Govt%20Announcement%20No%201%20&%202%20of%202008.pdf>].

⁴⁹ Thein Linn, “Our Ultimate Aim is to Hand Over the State Power to the People,” *The Myanmar Times*, March 31-April 6, 2008.

⁵⁰ *Ibid.*

⁵¹ For more information on “seven-step roadmap” see the homepage of the Embassy of the Union of Myanmar in Washington, DC, [http://www.mewashingtondc.com/Road_Map_Process.html].

⁵² *The New Light of Myanmar*, April 24, 2008.

government officials, and diplomats.⁵³ A copy of the draft constitution, in Burmese, was available on the web page of Burma Digest, “a magazine specializing in human rights affairs in Burma.”⁵⁴ The SPDC began providing copies of the 194-page draft constitution to the public on April 9, 2008 at a cost of 1,000 kyat (\$1.50) — two months after announcing that a referendum would take place in May 2008.⁵⁵ At the same time, the military junta announced the date for the referendum — May 10, 2008.

The draft constitution creates a parliament (*Pyidaungsu Hluttaw*) with two chambers — the Union Assembly (*Pyithu Hluttaw*) and the National Assembly (*Amyotha Hluttaw*) — and sets aside a quarter of the seats in each chamber for the military.⁵⁶ The draft constitution also permits a military takeover “in the event of an emergency.”⁵⁷ A provision in the draft constitution also bars a person who has dual citizenship, or has a close relative who is a foreign national from holding public office, effectively preventing opposition leader Aung San Suu Kyi from running for office because she was married to a British citizen and has two sons who are British nationals.⁵⁸

Burma’s various opposition groups were initially uncertain how to respond to the SPDC’s announcement of a referendum on a draft constitution. According to a leader of the 88 Generation Students Group, Tun Myint Aung, “The only real choice is, should we vote ‘no’ or just boycott?”⁵⁹ However, Dr. Nay Win Maung, a member of the “Third Force Group,” a group that advocates engagement with the military junta and opposes sanctions, recommends that the opposition groups endorse the draft constitution and focus on the 2010 elections.⁶⁰ On April 2, 2008, the main opposition group, the National League for Democracy (NLD), called on the people of Burma to vote “no” on the constitutional referendum.⁶¹

U.S. Policy towards Burma⁶²

Two days before Cyclone Nargis struck Burma, President Bush issued an executive order expanding U.S. trade and economic sanctions effective May 1,

⁵³ “Burmese Electorate Still Wait to See Constitution Text,” *Irrawaddy*, April 2, 2008.

⁵⁴ [<http://burmadigest.info/2008/03/28/2008-constitution-of-burma/>]

⁵⁵ “New Burma Constitution Published,” BBC News, April 9, 2008.

⁵⁶ “Burmese Electorate Still Wait to See Constitution Text,” *Irrawaddy*, April 2, 2008.

⁵⁷ *Ibid.*

⁵⁸ “Draft Constitution Surfaces, Stirring More Debate,” *Irrawaddy*, March 31, 2008.

⁵⁹ Kyan Zwa Moe, “Constitutional Conundrum,” *Irrawaddy Magazine*, April 2008.

⁶⁰ *Ibid.*

⁶¹ Wai Moe, “Burma’s NLD Calls for a Referendum ‘No’ Vote,” *Irrawaddy*, April 2, 2008.

⁶² For more detailed information about U.S. relations with Burma, see CRS Report RL33479, *Burma-U.S. Relations*, by Larry Niksch.

2008.⁶³ U.S. foreign policy towards Burma in general is currently delineated by the Burmese Freedom and Democracy Act of 2003 [P.L. 108-61, extended by P.L. 108-272, P.L. 109-39, and P.L. 110-52] and a series of Executive Orders.⁶⁴ These laws and Executive Orders:

- Prohibit the import into the United States products from Burma;
- Ban the export or re-export of financial services to Burma by U.S. persons;
- Prohibit a U.S. person or company from approving, aiding, or supporting a foreign party's investment in Burma;
- Prohibit U.S. persons from purchasing shares in a third-country company if the company's profits are predominantly derived from the company's development of resources in Burma;
- Authorize the President to impose a freeze on funds or assets in the United States of the Burmese Government and individuals who hold senior positions in that government;
- Freeze all property and interests in property held in the United States or that come to the United States of the Myanmar Gem Enterprise, the Myanmar Timber Enterprise, the Myanmar Pearl Enterprise, and any person determined by the Secretary of Treasury, after consultation with the Secretary of State, to be either directly or indirectly owned or controlled by the SPDC or supportive of the SPDC; and Require U.S. representatives in international financial institutions to vote against the extension of any financial assistance to Burma.

Under the Bush Administration, the U.S. policy has been to minimize contact with the SPDC and to isolate the military junta. The U.S. Embassy in Rangoon has no ambassador. In addition, as indicated above, the United States actively supports the efforts of international organizations (such as the UN) to place pressure on the SPDC to improve human rights in Burma and return the government to civilian rule. The U.S. State Department issued a statement on February 11, 2008, that called the proposed constitutional referendum "evidence of its [the SPDC's] refusal to pursue a meaningful and time-bound dialogue with Burma's democratic and ethnic minority representatives."⁶⁵ In its 2008 annual human rights report, the State Department cited Burma for a wide range of human rights abuses including: arbitrary or unlawful deprivation of life; torture and other cruel, inhuman, or degrading treatment or punishment; arbitrary arrest or detention; denial of fair public trial; the detention of political prisoners; forced relocations; restriction of the freedom of speech and press;

⁶³ Executive Order 13464, "Blocking Property and Prohibiting Certain Transactions Related to Burma," *Federal Register*, May 2, 2008 (Volume 73, Number 86), pp. 24489-24493.

⁶⁴ Executive Order 13310, Executive Order 13448, and Executive Order 13464. For more specific information, see CRS Report RS22737, *Burma: Economic Sanctions*, by Larry A. Niksch and Martin A. Weiss.

⁶⁵ "Burmese Regime Announces Sham Referendum," Press statement by Sean McCormack, U.S. Department of State, February 11, 2008.

restriction of the freedom of peaceful assembly and association; repression of religion; and human trafficking.⁶⁶

Burma-Related Legislation in the 110th Congress

On May 7, 2008, the Senate passed by unanimous consent **S.Res. 554** expressing the Senate's "deep sympathy to and strong support for the people of Burma, who have endured tremendous hardships over many years and face especially dire humanitarian conditions in the aftermath of Cyclone Nargis." The resolution also expressed the Senate's support for President Bush's decision to provide humanitarian aid and indicated a willingness "to appropriate additional funds, beyond existing emergency international disaster assistance resources, if necessary to help address dire humanitarian conditions throughout Burma in the aftermath of Cyclone Nargis and beyond." There are reports that the House of Representatives will consider a similar resolution soon.

In December 2007, both the House of Representatives and the Senate passed versions of **H.R. 3890**. The bill — "The Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2007" in the House and "The Burma Democracy Promotion Act of 2007" in the Senate — would ban both the direct and indirect import of gemstones mined or extracted from Burma. The House version would also prohibit "direct or indirect payments of any tax, cancellation penalty, or any other amount to the Burmese Government, including amounts paid or incurred with respect to any joint production agreement relating to the Yadana or Shwe gas fields or pipeline — an apparent provision to force Chevron to divest from its business activities in Burma. The Senate version does not contain prohibition on tax payments to the Burmese government, but does ban the direct or indirect import of products containing teak or other hardwood timber from Burma. Consultations between the House and Senate have not yet reconciled the differences between the two versions of H.R. 3890.

On March 14, 2008, Representative Rush D. Holt introduced **H.Con.Res. 317** "Condemning the Burmese regime's undemocratic constitution and scheduled referendum." The resolution "denounces the one-sided, undemocratic, and illegitimate act by the State Peace and Development Council (SPDC) to legalize military rule with the constitution" and urges the President to work through the UN Security Council and the Association of Southeast Asian Nations (ASEAN) to "end junta political intransigence and promote meaningful political dialogue" in Burma. On May 6, 2008, the House passed the resolution by a vote of 413 yeas and one nay.

On November 16, 2007, the Senate agreed by unanimous consent to **S.Con.Res.56** that "encourages ASEAN to take more substantial steps to ensure a peaceful transition to democracy in Burma." On December 4, 2007, the House of Representatives referred the resolution to the House Committee on Foreign Affairs.

⁶⁶ State Department, *2008 Country Reports on Human Rights Practices*, March 11, 2008.

Legislation was also introduced in both the House of Representatives and the Senate to award the Congressional Gold Medal to Aung San Suu Kyi.⁶⁷ The House of Representatives passed its version of the bill on December 17, 2007 by a vote of 400 yeas and zero nays. On April 24, 2008, the Senate passed **H.R. 4286** without amendment by unanimous consent. The legislation was presented to the President on May 1, 2008, and signed into law on May 6, 2008.

Issues for Congress

The concurrence of the tightening of U.S. sanctions on Burma and the arrival of Cyclone Nargis just one week before the nation was to vote on a proposed new constitution has compounded the political pressure on the ruling military junta. Many of the people of Burma need humanitarian aid and are dissatisfied with the SPDC's initial response to the crisis. The current situation presents Congress with at least four key issues: humanitarian assistance; the constitutional referendum; a possible long-term food shortage; and potential political instability in Burma.

Humanitarian Assistance

Relief Operation and Political Developments. Humanitarian emergencies usually stem from two overall types of disasters: natural or conflict-related. U.S. and international humanitarian assistance have an important impact not only on the relief operation itself, but on broader foreign policy issues. Natural disasters (like the 2004 tsunami in the Indian Ocean, 2005 earthquake in South Asia, and 2007 cyclone in Bangladesh) may affect millions of people each year who require prolonged urgent assistance. Responses are typically multilateral, often have a relief operation end date, and are less likely to be hindered by the politics of the situation. By contrast, in many conflicts — terrorist attacks, war between states, or where groups within a country are fighting and in the absence of a political solution — the response cannot be separated from broader foreign policy developments and the overall strategy (including determining an exit point) may be much less clear.

In the case of Burma, the response to the natural disaster is closely linked to political developments both within the country and in its relationships with the international community. The circumstances and difficulties of mobilizing a relief operation appear for the moment to have been hampered in part by the politics of the situation. Some are saying that the provision of humanitarian assistance and an increase in the international presence in Burma could represent an opportunity to change the authoritarian system in Burma. This may be what the SPDC fears, not only with the constitutional referendum at stake, but in the long term as well, with the result that it has not allowed most offers of international humanitarian experts.

Competing Aid and Budget Priorities. Humanitarian assistance generally receives strong bipartisan congressional support and the United States is typically a

⁶⁷ H.R. 4286 and S. 2631.

leader and major contributor to relief efforts in humanitarian disasters.⁶⁸ When disasters require immediate emergency relief, the Administration may fund pledges by depleting its disaster accounts intended for worldwide use throughout a fiscal year. In order to respond to future humanitarian crises, however, these resources would need to be replenished or it could curtail U.S. capacity to respond to other emergencies. These accounts are typically restored through supplemental appropriations. Amid efforts to tackle rising budget deficits by, among other measures, slowing or reducing discretionary spending, finding the resources to sustain U.S. aid pledges may present some challenges, depending upon the resources required and competing aid priorities at hand.

The Senate passed S.Res.554 on May 7, 2008, calling for Congress “to stand ready to appropriate additional funds, beyond existing emergency international disaster assistance resources, if necessary to help address dire humanitarian conditions throughout Burma in the aftermath of Cyclone Nargis and beyond.” With the House expected to begin floor consideration of legislation to provide FY2008 and FY2009 supplemental appropriations for overseas military operations, international affairs, and some domestic programs, it is possible that Congress will appropriate additional funds for humanitarian assistance to Burma.⁶⁹

Constitutional Referendum

Prior to the arrival of Cyclone Nargis, several Members of Congress had indicated their opposition to Burma’s planned constitutional referendum. After the cyclone struck, on May 6, 2008, the House of Representatives passed **H.Con.Res. 317** “condemning” the constitutional referendum and calling on the SPDC to enter into “meaningful political dialogue” with Burma’s opposition groups. Since the SPDC announced the constitutional referendum, the Senate has not passed any legislation relating directly to the constitutional referendum.

The SPDC’s decision to delay the constitutional vote in selected cyclone-affected areas of Burma could provide the junta with a new opportunity to influence the outcome of the plebiscite. With much of the nation still scheduled to vote on May 10, 2008, the SPDC might decide to delay or cancel the vote in the affected regions if the preliminary results show the “No” vote winning, preventing the embarrassment of having to report that the people of Burma rejected the junta’s constitution. Alternatively, the SPDC could use the cover of the disruption caused by the cyclone to falsely report or otherwise affect the outcome of the vote. Because the military junta has barred international observers to the elections, it will be difficult to monitor the conduct of the election.

⁶⁸ For background information see CRS Report RL33769, *International Crises and Disasters: U.S. Humanitarian Assistance, Budget Trends and Issues for Congress*, by Rhoda Margesson.

⁶⁹ The vehicle for the bill is expected to be H.R. 2642, the FY2008 military construction/VA appropriations bill, that was incorporated into the FY2008 consolidated appropriations act. See CRS Report RL34451, *Second FY2008 Supplemental Appropriations for Military Operations, International Affairs, and Other Purposes*, by Stephen Daggett, Susan B. Epstein, Rhoda Margesson, Curt Tarnoff, Pat Towell, and Catherine Dale.

In the weeks ahead, Congress may decide to take up the issue of Burma's proposed constitution. If the SPDC continues along its current plan to complete the vote by May 24, 2008, the response of Congress, if any, will likely depend on the reported outcome of the vote. Prior to the arrival of the cyclone, various sources reported widespread voter intimidation in Burma, as well as plans for rigging the vote. After the destruction of Cyclone Nargis, it is more difficult to predict the "official" outcome of the plebiscite.

Long-Term Food Shortages

Even after the immediate post-cyclone emergency has passed, experts expect the country to face a potentially severe food shortage for up to two years. The areas struck by Cyclone Nargis were important sources of rice, seafood, pork, and chicken for Burma; it is unlikely that the rest of the country will be able to step up food production to replace the lost output of the cyclone-devastated regions. It is also uncertain if Burma will be able to import enough food to replace its lost domestic output because of damage to its transportation infrastructure and a shortage of foreign exchange. As a result, Burma may require food assistance for many months and possibly years.

In addition, in the first few days after Cyclone Nargis, food prices in Burma reportedly increased by 100 percent or more. While this spike in food prices is likely to subside to some extent in the coming weeks, it is also likely that prices will not return to their pre-cyclone levels. In addition to the challenge of recovering from the destruction caused by the cyclone, the people of Burma will probably face higher — and possibly rising — food prices for many months. Given that most households in Burma were living in poverty before the arrival of Nargis, the higher food prices will place more strain on the Burmese people. It is noteworthy to recall that widespread protests in Burma in September 2007 began as a demonstration against an unannounced increase in fuel prices.

Burma's potential long-term need for food assistance presents two possible concerns to Congress. First, Congress may be asked to appropriate funds to provide long-term food and agricultural assistance to Burma. Second, these recent developments may also prompt changes in the current laws governing sanctions on Burma.

Potential Political Instability

The possible combined effects of public dissatisfaction with the SPDC's response to the cyclone disaster, a potential rejection of the junta's proposed constitution, and widespread food shortages and food price inflation could combine to pose a threat to the political survival of Burma's ruling military junta. Prospects for public demonstrations against the SPDC have increased.

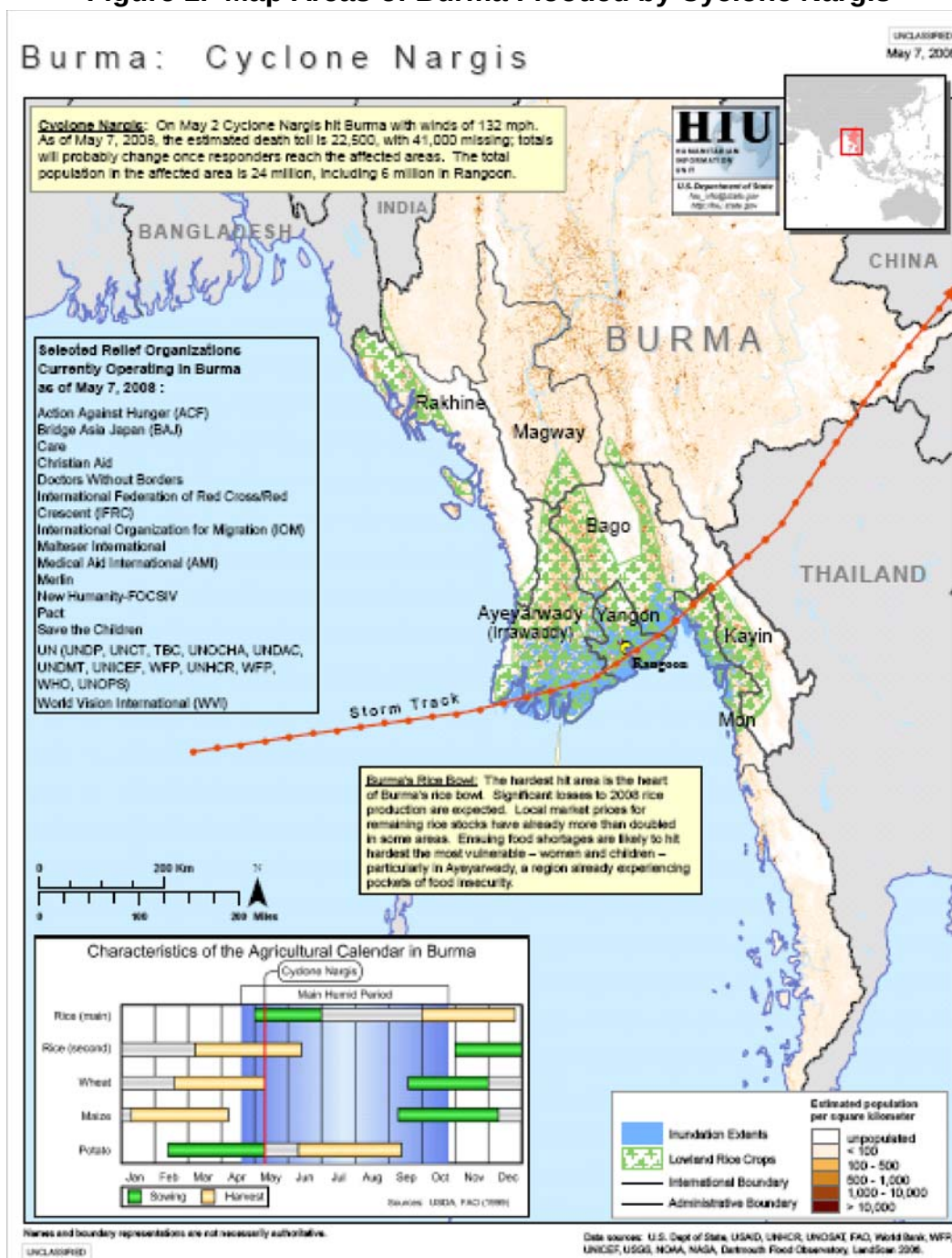
One question Congress may move to consider is whether current circumstances warrant a further tightening or easing of political pressure on the SPDC. Given Burma's current and anticipated future need for humanitarian assistance, as well as the apparent heightened dissatisfaction with the SPDC, some are likely to argue that

the current situation is an opportune moment to ramp up U.S. sanctions and seek greater action from the United Nations and other multilateral organizations. For example, resolution of the differences between the House and Senate versions of **H.R. 3890** and subsequently forwarding the legislation to the President would build upon Executive Order 13464. However, new congressional sanctions would possibly eliminate any possibility of the SPDC admitting U.S. aid or relief workers in the future and could potentially be used by the military junta to rally support based on patriotic or nationalist appeals to opposition to “outside interference.”

A key factor that will impact the effectiveness of any changes in U.S. sanctions on Burma will be the perceived ability of the SPDC to weather any political storm. One critical element in the post-Nargis period will be the strength of the SPDC’s support among rank-and-file soldiers, as well as its paramilitary support group, the Union Solidarity and Development Association (USDA). Formed in 1993, the USDA is ostensibly a social organization that claims nearly 23 million members, but has a reputation for violent acts against opposition groups in Burma. In recent years, the USDA has organized “people’s militias” that have reportedly been involved in attacks on Aung San Suu Kyi and other opposition leaders in Burma.⁷⁰ Burma’s soldiers have already demonstrated a readiness to open fire on civilian protests and the USDA have similarly demonstrated a willingness to be a weapon of oppression for the SPDC. Whether or not the soldiers and the USDA members will continue to support the military junta during any post-Nargis civil unrest remains to be seen.

⁷⁰ For more information about the USDA, see *The White Shirts: How the USDA Will Become the New Face of Burma’s Dictatorship*, Network for Democracy and Development, May 2006.

Figure 1. Map Areas of Burma Flooded by Cyclone Nargis



Source: Humanitarian Information Unit of the U.S. State Department