



# European sanctions against Myanmar

By Agnes Frittin and Niklas Swanström

*The European Union's Myanmar policy has been paved with good intentions. The intention has been to help establish a legitimate, democratically elected civilian government in Myanmar. This would end repression, violation of fundamental freedoms and lead to prosperity. These are no small objectives and they are all published in the Council Conclusions and Presidency Statements. In addition to this, the personal interest of political leaders and the impact of European advocacy groups have lead to the perception that they are on "the right side of history".*

One part of the positively-intended EU policy has been the imposition of sanctions. The existing array of sanctions are 1) unilaterally imposed as a result of the EU Common Policy; 2) unilaterally imposed by the EU through statutory regulations; and 3) informal sanctions applied by individual EU countries. All EU sanctions against Myanmar are autonomous measures, i.e. not endorsed by the UN. Apart from the US and Canada, whose sanctions are similar, there is no state or region that has the same comprehensive sanctions regime as the EU.

EU sanctions against Myanmar have been a long line of failures, as most sanctions are. What we see today in Myanmar is not a weakened government and political change, but stronger governmental control of resources and people, and increased interaction with, and influence of primarily China, but also India, Thailand, Russia and other actors, with the marginalization of European interaction and influence. This was not what the EU sought. An open-minded analysis needs to be made by the EU regarding the continuation of the its sanctions policy.

## The effectiveness of sanctions and the case of Myanmar

The effectiveness of sanctions can be measured in three different ways. Considering these it is possible to assess in what sense, and to what degree, sanctions have been a success, or a failure in achieving the objectives. There is a technical, practical and a political approach to measure effectiveness.

### Technical effectiveness

Technical effectiveness concerns the procedures and the legal obligations among the boycotting states, i.e. the EU in this case. It is apparent that technical effectiveness has been high. Visas have been denied, the statutory export-import-investment ban is being observed by European banks and business and World Bank/IMF/ADB assistance is being withheld, reducing economic engagement with Myanmar even though investments are reaching Myanmar through non-European subsidiaries incorporated, for example, in British dependent territories.

However, informal sanctions, such as both activist and official calls for a tourism boycott and the discouragement of trade and investment which is not specifically sanctioned, have created at most an uncomfortable climate for European tourists who are expected to justify their travel plans. Moreover, the boycott of the banking sector forces tourists to carry large amounts of cash rather than credit cards that are useless in the country outside international class hotels, and this is also a nuisance for the local population when they travel outside the country (as they do not generally have access to credit cards).

### Practical effectiveness

Practical effectiveness concerns the ways the sanctions regime is handled, implemented and circumvented. It is increasingly apparent for all serious watchers of Myanmar that existing sanctions are ineffective and in some cases directly counter-productive. Indirectly many of the sanctions impact negatively on the general population and small private business, e.g. by preventing trade and tour-



ism to strengthen a middle class in contrast to the elite that today benefits from the situation. There are specifically three areas where EU sanctions have had unintended negative effects.

A) The **denial of governance know-how**: As a result of the boycott of IFI (international financial institutions) technical assistance there are serious procedural constraints for EU assistance to work with the central government. This has led to a situation where ordinary people, including from ethnic groups, suffer from the absence of a basic concept of good governance, especially with regards to economic policy-making. Today there are few who deny that this is the case, and the failure of the EU (and other actors) to influence the situation has been far too apparent to ignore.

B) The **de facto economic boycott** (Myanmar does not benefit from GSP/EBA – Generalized System of Preferences/Everything but Arms) contributes to preventing a middle class from emerging. In other countries in similar contexts, a middle class has been an important factor in orchestrating political change, a development that has been denied Myanmar due in significant measure to external factors. Due to this, small and medium sized companies in Myanmar have been affected quite badly by the sanctions and large and strategic companies, along with the government (military), have come under the control of other large international actors. This is especially notable with regard to industries such as energy, precious stones and forestry. The boycott has de facto created virtual spheres of influence for China, Thailand and India, where they control not only the economy but also to some degree political development, which is especially notable in the areas bordering China.

Moreover, the sanctioning of products from Myanmar has created perverse effects on the country-of-origin principle where, as one example, raw gems from Myanmar are transferred to Thailand and are legally renamed “Thai gems” after they are processed. This weakens the local business in Myanmar in favour of Thai companies that dominate the transit trade. Moreover, it reduces the economic development of the middle class in Myanmar and makes political transition more problematic.

C) The current situation makes it extremely difficult to address environmental and economic concerns. European policy has effectively made it impossible for the EU to have any impact on the development and construction of

new policies inside Myanmar. One example, of many, is that external buyers deplete the stock of tropical hardwood in Myanmar. The EU Common Position provides a mandate to engage the government on the problem of “non-sustainable, excessive logging resulting in deforestation”. However, the ban on timber effectively rules out such a possibility of positive engagement. Other actors in the forestry trade that have less moral scruples about deforestation take over the business. Moreover, even if the EU could theoretically engage Myanmar on the issue, it would effectively be excluded by the Myanmar government, due to EU sanctions policy. This problem is reoccurring in many other areas and has been strengthening alternative partners for Myanmar that often have divergent interests with the EU.

### *Political effectiveness*

Political effectiveness looks at the objectives and their achievements. The EU’s stated policy goal is to help a peaceful transition towards a civilian, legitimate government. Have sanctions helped to this end? It is apparent (see table on page 6) that European sanctions have not produced the desired results. The EU has been perceived by the parties in Myanmar, both the government and the population in general, as exporting Western values through pressure. EU policy has not been perceived as being positive or even as a part of a bargaining process. This has resulted in a hardening of the government’s stance, rather than a change in behaviour that is in line with the desires of Europe. In fact, **the EU is usually the reactive party, while a recalcitrant government manages to set the agenda.**

The reasons for these shortcomings may indeed be found in standard sanctions theory, but have been ignored:

1) The **core interests of the government are not threatened** by the sanctions imposed, such as holding on to power and protecting personal and economic interests. It is apparent that only sanctions enforced by the most important economic partners (China, India, and ASEAN) would have any measurable effect and these states would be very reluctant to enforce such measures, not least as the EU/US sanctions have benefitted them significantly. On the other hand, informal sanctions like calls for tourism boycotts and a de facto economic boycott are damaging the population, more specifically the low and middle



classes.

2) In line with the above argument, gaining **multilateral** support is crucial for the effective use of sanctions. The sanctions against Myanmar are not universal. The Myanmar government has been able to sustain its regime (and weaken the opposition) due to trade and investments from close neighbours, notably China, Thailand and India, but also Russia.

3) **Sanctions should be short and decisive** to be truly effective. This is not the case with Myanmar. Since the sanctions started in 1988 (when all Western bilateral development aid programmes were halted and support withdrawn from IFIs) the Myanmar government has been able to establish its alternative economic network, strengthened by a regional political cover. The argument that “Sanctions need time to work” is empirically a misreading of the situation in Myanmar which has endured sanctions now for over twenty years.

4) It is a failure that **sanctions are not a part of a bargaining process**. The isolation of Myanmar has resulted in a situation where the lifting of sanctions, or their continuance, would affect the government very little. The “Road Map towards Disciplined Democracy” is steering the government’s actions and there is very little the EU can do to change this today.

5) **Several EU sanctions are not strictly targeted against the government**. For example, of the 1,207 businesses targeted in Annex V of the February 2008 measures, most are not State, military or crony. Many scores are no more than SME family business which were the backbone of support for the National League for Democracy in the 1990 elections. They simply happen to be in the wrong sectors – products related to timber, gems and metals. The reality is that the general population has been affected to a much higher degree than the government (see annex 1) by the withdrawal of GSP/EBA, a boycott of IFI technical assistance and boycotts against labour-intensive industries like garments and sea-food even when not specifically sanctioned by statutory measures.

6) Sanctions – and especially their underlying “meta-message” of moral superiority – target the government’s identity more than its behaviour. A general climate of hostility and reciprocated denial of dialogue has led to mutual indifference. The incentives from both sides to engage in constructive actions are therefore minimal.

7) Sanctions include nationalistic sensitivities and the

government can frame sanctions as an issue of hostility and sees itself, and is often seen by the people, as a defender of national unity.

## Looking beyond humanitarian aid and sanctions - alternative approaches

One of the most apparent conclusions is that the EU sanctions regime seems to be conducted mainly for internal European political reasons, rather than for an improvement of the people’s lives in Myanmar. Continued sanctions may well make the general public in Europe feel good about themselves. People may be led to believe that they are doing something useful.

More important than brooding over feelings is to acknowledge that the sanctions have brought more suffering for the population in Myanmar. It is commonplace to counter this assertion by pointing to the overall responsibility of Myanmar’s military government for the dire state of affairs in the country. Aren’t official budgets for social sectors ridiculously low? Aren’t children malnourished? True, but isolation makes things worse. This ugly reality will change when the economy can function normally. Normal trade relations will allow the country to join the international mainstream. Sanctions dangling over the population will not do the trick.

And more of the wrong medicine can only be counter-productive. It is a constant refrain that the reason why EU sanctions have not worked is that they are not tough enough. E.g. it is requested that Total should be forced to withdraw from Myanmar; that the use of the Euro should be banned and the “Swift” settlement system be embargoed; above all, the EU should support US activist pressures to deny banks which hold Myanmar accounts access to the US financial system. In each case, the measures suggested are either politically unrealistic – such as the US Treasury confronting banks and governments in China, Hong Kong, Singapore, Thailand and elsewhere – or technically counterproductive in a debilitated and dysfunctional economy. Current Asian partners of Total would be only too delighted to take over Total assets. Such siren calls have no serious basis and should be dismissed as propagandist.

But, one could argue, sanctions have been counterbalanced by humanitarian aid. This is indeed a fallacious argument. **Humanitarian aid**, strictly speaking, means sup-



port to vulnerable people. It is aid given impartially, based on needs – not on political considerations. Aid is given to Myanmar only to respond to a few pressing needs and at such a minimal level that Myanmar is at the bottom of the OECD list of “fragile states” with only US\$4.00 per person per annum compared with an average of US\$42. Humanitarian aid is not given – and should not be given – to buy political progress. Better not to mention humanitarian aid in a political context. Aceh lost 170,000 people killed in the 2004 tsunami, but received ten times as much per head of population in recovery aid as Myanmar which lost 140,000 killed. On the other hand, **genuine development aid** requires a minimum of dialogue with the government. Refusing dialogue will hence not help. But such a dialogue between the EU and the Myanmar government does not exist yet. If and when a civilian (or hybrid) government comes into existence later this year, this would provide an excellent opportunity to break the impasse.

The continued sanctioning of Myanmar has reduced to almost zero the possibility for the EU to influence the government in Myanmar and has helped to create a strong military regime. By the same token, it has strengthened other actors to influence Myanmar. It has also effectively prevented the emergence of a middle class and its political role. International boycotts have not affected big business in gems, energy and forestry, but have led to the depletion of natural resources in Myanmar.

In short, existing sanctions originate in moral politics and are hopelessly wrong. Western sanctions have eliminated – or prevented the creation of – thousands of jobs. They have denied protection of poor families, and they have contributed to erode the system of governance.

### What are the alternatives?

Sanctions are essentially an expression of helplessness. Sanctions may work, essentially, with a government caring for its international reputation. Sanctions do not work when there is nothing to negotiate. The EU and the Myanmar government have little common ground politically and hence little to negotiate. Insistence by both the EU and the US that sanctions must remain in place unless and until there is political reform makes no sense when those sanctions are shown to provide no leverage of any kind on the regime, but rather to entrench them in power and make them more recalcitrant. The weak opposition does not make things easier.

Neither Daw Aung San Suu Kyi nor her party, the NLD, has yet come forward with concrete policy statements. Civil society is finding some breathing space, but exile groups monopolise the discourse. What now?

1. **Creating some common ground.** Influence requires **relation building**, whether one likes a certain type of government or not. If only the transfer of power to Daw Aung San Suu Kyi satisfies Western powers, one should not be surprised that European influence remains irrelevant. The military leadership will clearly resist all forms of pressure, and it is able to do so. On the contrary, strategic concessions by the government should be recognised. This is not about endorsing government policy, but about relation-building. Such will take time and this is why judgement about the current US efforts towards dialogue should be suspended. In a more advanced stage and with a minimum of trust being established, the EU could attempt to offer proactive support to peace-building. The conflict patterns in Aceh and elsewhere are clearly different. In 2004, nobody had thought that the EU could help reconcile an insurgency movement and a government over Aceh. And yet, it worked.

2. **Creating content for the relationship.** High-level diplomacy can express moral and other values. However, a proactive policy has to go beyond static requests for better governance. The country is in deep trouble and unable to redress the situation by its own ability. A massive programme of development cooperation is required going beyond the classic limited social sectors, and must include national economic planning, social security planning, the development of credible statistics, creating managerial skills in the administration, etc. This needs to be done in partnership with (yes, with!) the government. In parallel, civil society could be supported in ways which are not perceived as “offensive” – arts and culture, higher learning, in short, creating social capital. There is an amazing amount of civic solidarity, but there is no history of democratic institutions.

3. **The economic front.** Trade and investment, as the Millennium Development Goals recognise, are incomparably more powerful agents of reform than inadequate aid hand-outs. Creating more trade and business links would inevitably require more contacts. The lack of export opportunities – thanks to the withdrawal of GSP benefits, activist boycotts and official discouragement – isolates the country. The GSP should be reinstated as quickly as possible. It would be wrong to use the GSP as a “conditional” carrot in the event



that the government agrees to reform. The last twenty years have shown that “conditionality” does not work (cf. Senator Lugar’s comments last year on the past 47 years of relations with Cuba). On the contrary, the GSP should be proactively used to promote reform, by helping a middle class to emerge. Finally, an honest analysis of existing EU sanctions would highlight those which are mistakenly targeted against supporters of political reform as well as several Asian subsidiaries (Thai, South Korean, Singapore, Japanese) not controlled or owned by Myanmar interests, and hence contrary to EU policy.

None of the positive measures mentioned above will bring about positive change overnight. The EU must be prepared for an arduous process. But this is a challenge worth undertaking.

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*This Policy Brief is a short version of a longer study that the authors are involved in.*

*The opinions expressed in this Policy Brief are those of the authors and do not necessarily reflect the views of the Institute for Security & Development Policy or its sponsors.*

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**Table: Damage inflicted on the actors in Myanmar**

	Visa ban, asset freeze, ban on high-level visits	Economic measures (sectoral boycott, investment ban etc.)	Boycott of military cooperation	Boycott of IFI lending to Myanmar and resulting limited TA for public sector	Informal sanctions, e.g. advocating a tourism boycott	Limited development cooperation and aid.
<b>Ruling elite (State Peace and Development Council)</b>	A nuisance at best. Possible psychological effect on status and legitimacy in the Western world only..Ban on high-level visits reduces EU channels of communication.	Not relevant. Functioning economic and financial circuits have been established in the region. Economic dependence on China.	Arms embargo: not relevant as other suppliers readily available but morally understandable.	Not relevant	Not relevant	Irrelevant, but used as argument against the EU, i.e. the population suffers as a result.
<b>Administration (ministries, local authorities, ethnic leaders, military)</b>	Not relevant	Not relevant	Training: lack of western military contacts is regretted by some officers. Absence of EU (but not US) military attachés not in Western interest.	Counter-productive withholding of know-how (economic planning).	Not relevant	Makes sectoral policy dialogue more difficult, otherwise irrelevant.
<b>Political parties (political stakeholders, “opposition”)</b>	Not relevant	Not relevant	Not relevant	Not relevant	Not relevant	Not relevant
<b>Economic Operators</b>	Not relevant	Counter-productive: strengthens cronies, weakens SMEs and obliges independently-minded entrepreneurs to conform.	Not relevant	Counter-productive: SMEs are the victims of lacking governance.	Counter-productive: loss of income for a chiefly private sector.	Not relevant
<b>Civil society, ethnic groups, NGO’s, informal groups, individuals.</b>	Not relevant, some may even welcome such measures.	Partly counter-productive: victims of boycotts.	Not relevant	Partly counter-productive: Victims of boycott.	Not relevant	Very relevant in a negative way – the EU is exposed to reproaches of suing double standards and imposing injury. When comparing development and in countries with similar levels of poverty and fragility.