

Introduction

European Union (EU) members are committed to a common foreign policy on Burma, known as a Common Decision. In theory, this could be highly effective, with all 27 EU members working together to help bring democratic reform in Burma. In practice, divisions within the EU mean compromising with the lowest common denominator, resulting in a weak and ineffective response that has had no significant impact on the dictatorship.

European Union members first agreed on common measures against Burma following the crushing of the democracy uprising in 1988. These included ending development assistance to the government, and an arms embargo. In 1996 the various common measures were brought together as a Common Position by the European Union, now known as a Common Decision. It was originally renewed every six months, but is now renewed annually in April. It can, however, be revised at any time.

The EU has long been divided on how to deal with Burma. A handful of countries, UK, Czech Republic, Netherlands, Ireland and Denmark, have consistently favoured increasing pressure to varying degrees.

A handful of countries have opposed increasing pressure, and some even favour reducing existing measures taken by the EU. These include; France, Germany, Austria, Italy, Spain and Poland.

France's opposition to stronger EU sanctions is attributed to the fact that Total Oil, France's largest company, is a big investor in Burma. France has supported stronger pressure which does not involve

Key points

- Divisions within the EU have weakened the EU's influence.
- Most EU sanctions are toothless or not implemented properly.
- The EU still has economic influence it can use, but this must be in support of diplomatic initiatives.
- The EU needs to understand that the dictatorship will not voluntarily reform, and more pressure is needed.
- The EU should support high-level UN-led dialogue, not pursue its own low-level engagement of the kind which has failed for 20 years.

economic sanctions which could impact Total Oil, such as a United Nations Security Council resolution and a global arms embargo.

The division within the EU has meant that it is left without an effective strategy for dealing with the situation in Burma. A previous policy of gradually increasing pressure on the regime if there was no change, and relaxing pressure if there was positive change, is no longer being applied, although publicly the EU still states: 'its readiness to revise, amend or reinforce the measures it has already adopted in light of developments on the ground.'

Current EU measures against Burma include:

An arms embargo

The EU has an embargo on arms and other equipment which can be used for military purposes and internal repression. However, dual use equipment has still been exported to Burma, which has been used in the manufacture of weapons. Some of this equipment, supplied by a German company, may also be being used in a possible nuclear programme. This does not appear to be in breach of EU sanctions. The EU also officially supports the imposition of a global arms embargo. However, it has taken no practical steps to build the global consensus required for such an embargo to be introduced, and so the dictatorship is able to purchase weapons in other countries.

A ban on non-humanitarian aid

Development assistance through central government is not allowed. Strict rules preventing European aid being delivered through the dictatorship were relaxed in 2004, lifting the ban on working with local 'civilian' authorities, although these are still under the control of the dictatorship. The ban on development assistance is important, as it prevents aid money being stolen by the generals. However, it does not place any significant economic pressure on them to reform.

A suspension of GSP trade privileges

The Generalised System of Preferences allows reduced and duty free access to developed country markets. This was withdrawn from Burma in 1997 because of the extremely high use of forced labour in the country. This has some impact on the dictatorship as they were using cheap labour and lack of workers rights to attract manufacturers and boost foreign currency reserves through exports. However, this is not one of the top sources of revenue for the dictatorship. Their preference is revenue from extractive industries where money goes directly to them.

A visa ban for senior regime officials and their families, business cronies, and certain judges

Otherwise known as the shopping ban, the visa ban is touted as a strong measure but is a long way from the serious economic pressure which is necessary.

As the British Foreign Office has admitted, before the ban regime officials rarely came to Europe anyway. There are exemptions in the visa ban which mean that regime officials are able to visit Europe frequently, including for meetings of ASEM and the United Nations. Junior government officials complain about the visa ban stopping them sending their children to western universities.

A freeze of assets held in Europe by people on the visa ban list

As the asset freeze only applies to those on a visa ban list, not to the military controlled government and associated companies, very little money has been frozen. Public discussions on the introduction of the freeze would also have enabled any significant funds to be moved beforehand. Shortly after the asset freeze was introduced just 87 euros had been frozen in all member states. By 2007 the figure was approximately 70,000 euros. When Burma Campaign UK last requested a figure, the European Commission stated they did not know how much had been frozen. Obviously the impact of the asset freeze is extremely limited.

A limited investment ban

This measure was introduced in 2004 as a belated response to the Depayin Massacre in 2003 when at least 70 people were killed by regime thugs during an attempt to assassinate Aung San Suu Kyi. The point of an investment ban is to stop revenue going to the dictatorship, which controls new investment through government and military owned companies, and their business cronies.

The options available were a ban on all new investment – as the USA introduced in 1997 – or to target investment in key sectors of the economy that earn the dictatorship a significant proportion of its income, such as oil, gas, gems, timber and mining. The EU did neither.

European companies are banned from investing in a small number of named state-owned enterprises. Many of the state-owned companies named are largely insignificant. Some on the original list didn't even still exist. The timber, mining, oil and gas sectors were not included when this was first introduced. However, European companies were banned from investing in a pineapple juice factory

and a tailor shop. In addition, it is already illegal to invest in state-owned enterprises under Burmese law, so the EU banned something that couldn't happen anyway. EU investment sanctions were strengthened in 2008 and do now cover timber, gems and mining, but still not oil and gas.

A ban on imports of, and investment in timber, gems and metals

Agreed in October 2007, and finally introduced in March 2008, these are the first sanctions that the EU introduced that could have had a significant impact on the dictatorship and the business cronies which support it. Gems and timber are significant revenue earners for the dictatorship, and the dictatorship gives concessions in these industries as rewards to the business cronies who support them. However, there is no enforcement mechanism whereby importers have to provide proof of origin certificates. Within months Friends of the Earth Netherlands exposed Burmese timber entering Europe via third countries. As far as gems are concerned, Burmese rubies and jade are even openly advertised for sale on ebay for export to any European country.

Nevertheless Burma Campaign UK sources in Kachin State report that these sanctions, combined with similar sanctions from the USA, are having an impact and are reducing revenue to the dictatorship.

Sanctions not well targeted or enforced

In summary, most EU sanctions are not well targeted and not properly enforced. They avoid the biggest source of export revenue, gas. In addition, the largest single source of export revenue for the dictatorship is a gas project run by a European company (Total Oil) and an American company (Chevron).

Not only have existing sanctions not been properly enforced, measures which would really have an impact have not been introduced. These measures should include a complete ban on new investment, and targeted banking and financial sanctions, including a ban on provision of insurance. Asian companies might have increased their investment in Burma, but they need insurance for this investment, and Europe is the global hub of the insurance industry.

Sanctions Not Used Strategically

The problem with EU sanctions is not only that the right sanctions are not in place, and those which are, are not enforced. The way the sanctions have been introduced has also been ineffective.

Rather than being applied as part of a clear strategy to reinforce diplomatic efforts, the EU has only been able to agree increased sanctions in reaction to an atrocity committed by the regime. They are in effect a slap on the wrist. Some governments also describe them as sending a message of disapproval. This is not why targeted economic sanctions are needed.

Sanctions are one tool that could be used to apply pressure on the dictatorship to enter into negotiations with Burma's democracy movement. The threat of sanctions should be proactively used to reinforce diplomatic efforts, not simply as a punishment for bad behaviour.

For example, measures could be agreed but delayed and dependent on the outcome of a UN Envoy's visit to Burma. If the regime refuse to agree to the requests of the Envoy to release all political prisoners, then sanctions would only come into effect in that event. In this way the threat of sanctions can apply useful political pressure and support the UN process.

As well as being better targeted and reinforcing diplomatic efforts, the threat of sanctions needs to be used more effectively. There has been a series of small one-off sanctions introduced over almost 20 years, thus giving the regime the time and opportunity to adapt and find coping mechanisms. Instead sanctions should be introduced on a regular and ongoing basis so that pressure is maximised.

Sanctions should also be better co-ordinated with those countries willing to impose them. For example, after the crushing of the 2007 uprising the EU, USA, Canada and Australia introduced new sanctions. However, there was no coordination and they all introduced different sanctions at different times, and again none were linked with any diplomatic initiatives.

Existing sanctions an unused tool

The EU has failed to proactively use the sanctions which are in place as a tool for encouraging dialogue and the release of political prisoners. The EU should be more proactive in raising the prospect of lifting sanctions if there is genuine positive change. However, the lifting of sanctions should only begin if there are real and irreversible steps as part of a process of national reconciliation and democratisation, in consultation with Burma's democracy movement.

Sanctions must be accompanied by incentives

Sanctions must be accompanied by a positive alternative, such as the economic development package proposed by the British government after the 2007 uprising, which would be implemented only in the event of genuine reform. Sanctions targeting the business cronies supporting the dictatorship will be highly effective at undermining the narrow support base of the dictatorship. However, the sanctions must be accompanied by a positive alternative, or the business elite will have nowhere else to go but the dictatorship.

EU Aid To Burma

The European Union has been gradually increasing aid to Burma, which is welcome. However, there are several key issues relating to aid which the European Union should take action on.

First, there needs to be a clear acknowledgment that the solution to poverty in Burma is a democratic accountable government. Poverty is caused by the dictatorship and its policies. The dictatorship has gas revenues in Singapore bank accounts which are enough to provide basic healthcare for everyone in Burma. Much more needs to be done to persuade the dictatorship that the revenue from the natural resources that it is effectively stealing from the people of Burma, should instead be spent on assisting the people of Burma.

The dictatorship does not allow aid to be delivered on the basis of need. The European Union should do more to challenge restrictions on humanitarian assistance in Burma.

The European Union cannot allow people to die

because of the restrictions on aid. These include restrictions which are targeted against ethnic minorities. The European Union should fund the delivery of cross border aid where necessary, to reach the parts of Burma where the dictatorship blocks aid. The continued failure of the European Commission to deliver this kind of aid is leading to the unnecessary deaths of children in Eastern Burma.

The European Commission is also cutting funding for the Thailand Burma Border Consortium, which supports refugees from Burma. The number of refugees in the camps has not fallen as attacks and human rights abuses continue, so there is no justification for these cuts, which are partly responsible for refugees no longer receiving the minimum rations required for good health.

The European Commission has also reduced spending on projects promoting democracy and human rights in Burma. It is essential to support those people from Burma working to build a democratic future for the country.

Engaging with Asia

The EU has gradually weakened its approach to Asian countries over Burma. When Burma first joined ASEAN the EU refused to attend meetings where the regime was present. Now the EU has allowed Burma to join ASEM and even reinterpreted its visa ban to allow regime officials to attend ASEM meetings in Europe.

The appointment of a EU Envoy on Burma in 2007 was intended to help bring Europe and Asia closer together on Burma. However, Asian governments have moved further from the European position, not closer to it. ASEAN in particular has responded in the past to pressure from Europe and Asia, but this pressure is no longer being applied.

One welcome development is that European heads of state now frequently discuss Burma on trips to Asia, which rarely happened a few years ago.

The need to speak with one voice

Not only do EU members disagree on Burma and deliver different messages to the generals, European Commission officials do the same.

European Commission staff openly and publicly advocate against the agreed Common Decision of EU member states, and against the positions taken by the European Parliament in its resolutions. It is unacceptable that Commission officials who have no democratic mandate undermine the official position of democratically accountable member states and the European Parliament.

This includes the EU Envoy on Burma. The original mission of the EU Envoy was to try to bring Asian countries and the European Union closer together on Burma, and to persuade Asian countries to move closer to the European Union. These efforts have failed, as Asian countries have moved further away from the EU position since his appointment. It sometimes appears that the EU Envoy is attempting to persuade European countries to move closer to the Asian position, rather than the other way round.

The message that Burma's generals receive from the European Union is, therefore, contradictory, and undermines the credibility of the Common Decision.

Legal Options Ignored

Despite a call by the UN Special Rapporteur on Burma, the EU has still not made a decision on supporting a UN Commission of Inquiry into war crimes and crimes against humanity in Burma. The EU has also failed to support moves to refer Burma to the International Court of Justice for its use of forced labour. Nor has the EU proposed the establishment of an ILO Commission of Inquiry into freedom of association in Burma.

The need for a political strategy

The European Union has repeatedly failed to understand the true nature of the regime ruling Burma. Polite political engagement of the kind that UN envoys have engaged in since 1990 have

not produced a single democratic political reform. The regime is not interested in the wellbeing of the people of Burma, and has no interest in democratisation. The generals are not politicians or diplomats. As soldiers they respect strength, but their experience of the international community, especially the European Union, is one of weakness, that words are not followed by action.

The regime will have to be forced to the negotiating table through a combination of political, economic and legal pressure. Weak and badly targeted sanctions have meant that to date they have not seen their interests threatened enough to persuade them that they need to change. Only when the regime and business cronies start to feel real economic pain and strong political pressure will they enter into genuine talks. The EU must, therefore, implement the strongest possible targeted economic sanctions.

The EU should use this economic pressure as leverage to ensure that the regime finally engages with the UN in entering into genuine talks. The European Union, one of the most powerful political and economic blocs in the world, has so far failed to use its influence in an effective and productive way to help promote democracy and human rights in Burma.

The European Union should not pursue its own unilateral diplomatic initiatives. These multiple unilateral diplomatic initiatives from the EU, US and others allow the dictatorship to play divide and rule and avoid real pressure.

The EU should throw its weight behind a revived UN-led initiative to achieve dialogue between the dictatorship, Aung San Suu Kyi and the democracy movement, and genuine ethnic representatives.

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**for Human Rights, Democracy
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