

***The European Union and Burma:
The Case for Targeted Sanctions***

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The report has been endorsed by the following organisations:

- ◆ Actions Birmanie, Belgium
- ◆ Asienhaus, Germany
- ◆ Burma Bureau Germany
- ◆ Burma Campaign UK
- ◆ Burma Centrum Netherlands
- ◆ Committee for the Restoration of Democracy in Burma (Germany)
- ◆ Danish Burma Committee
- ◆ Finnish Burma Committee
- ◆ Infobirmanie, France
- ◆ Norwegian Burma Committee
- ◆ Swedish Burma Committee
- ◆ The International Confederation of Free Trade Unions (endorses the recommendations of this report)

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Foreword

Burma's military regime has tested the will of the people of Burma; despite intimidation and violence, the people's desire for freedom and democracy remains strong. Our brothers and sisters in Burma realise that non-violent resistance does not mean passive resistance. Sadly, tyrants choose not to understand the language of diplomacy or constructive engagement, but rather respond only to the action of intense pressure and sanctions.

As in South Africa, the people and legitimate leaders of Burma have called for sanctions.

In South Africa when we called for international action, we were often scorned, disregarded, or disappointed. To dismantle apartheid took not only commitment faith and hard work, but also intense international pressure and sanctions.

In Burma, the regime has ravaged the country, and the people, to fund its illegal rule. Governments and international institutions must move past symbolic gestures and cut the lifelines to Burma's military regime through well-implemented sanctions.

I maintain my belief that no one or no government should wait to take action; the journey begins with one step. Businesses and governments have a choice if they want to do business with the oppressive regime in Burma, or not. Business with the regime puts weapons in the hands of those who massacred thousands in 1988; are responsible for creating more than a million Internally Displaced People who cannot find shelter and security in their own country; those who systematically rape women. It funds the vast intelligence system, the disgraceful incarceration and torture of Burma's freedom heroes, and the egregious human rights violations perpetrated against Burma's ethnic nationalities. Individuals and governments must take a stand against tyranny and those who protect and fund it.

Apathy in the face of systematic human rights abuses is amoral. One either supports justice and freedom or one supports injustice and bondage. Let us not forget that our responsibility is not complete until the people of Burma are free. At a time when the military is professing promises of freedom, one should bear in mind that actions speak louder than words. Freedom cannot be obtained through a process embedded in discrimination and persecution. I am deeply concerned for my courageous sister, Aung San Suu Kyi, and the more than 1,000 political prisoners, who have remained steadfast and true to non-violent principles, but are being kept isolated from the people of Burma and the international community. Their silenced voices are the most eloquent persuasion that the time to stand for their freedom is now.

If the people of South Africa had compromised the struggle against apartheid, we may never have gained our freedom. In Burma, to settle for anything less than freedom and justice, for the democratic participation of all people, would be to accept the presence of oppression and to dishonour our brave brothers and sisters who have dedicated themselves to the future of a democratic Burma.

I believe that truth and justice will prevail. Let a deep sense of faith and commitment to our principles guide our actions and sustain our hope. Sowing the seeds of justice may not be easy, but the harvest will be abundant.

The people of Burma will be free.

Archbishop Desmond Tutu

*This foreword was written for **Ready, Aim, Sanction – Special Report** published by Altsean-Burma in November 2003. We are grateful for the permission to re-print it.*

Executive Summary

The political stalemate in Burma will not be broken until the military regime considers it to be in its own self-interest to commence serious negotiations with the democratic and ethnic forces within the country. This paper outlines how the international community can bring about a political and economic situation which will foster such negotiations.

Burma is ruled by a military dictatorship renowned for both oppressing and impoverishing its people, while enriching itself and the foreign businesses that work with it. The regime continues to ignore the 1990 electoral victory of Aung San Suu Kyi and the National League for Democracy.

The regime has shown no commitment to three years of UN mediation efforts. It has failed to end the practice of forced labour as required by its ILO treaty obligations and demanded by the International Labour Organization. It continues to persecute Burma's ethnic peoples. It continues to detain more than 1,350 political prisoners including Aung San Suu Kyi.

Any proposal of a road map to political change in Burma will fail to bring about democracy in this country unless it is formulated and executed in an atmosphere in which fundamental political freedoms are respected, all relevant stakeholders are included and committed to negotiate, a time frame for change is provided, space is provided for necessary mediation, and the restrictive and undemocratic objectives and principles imposed by the military through the National Convention (ensuring continued military control even in a "civilian" state) are set aside.

Report Findings

1. Approved Foreign Direct Investment to Burma since 1989 was worth USD 6.6 billion, largely for tourist infrastructure and natural resource extraction projects. Burma's exports in 2002 were valued at USD 2.98 billion¹. Both trade and investment have provided significant resources to the regime and its support base. Since 1988 Burma's military has expanded from 200,000 personnel to more than 400,000 while the country's health, education and public services have almost collapsed.
2. The junta's support base is comprised of regional commanders, high and middle ranking military officers and the families and business associates of the military establishment. This constituency owns and controls much of the formal economy, which is largely dependent on foreign investment and markets. Reducing the regime's ability to keep this constituency satisfied will foster reform-oriented political pressure within the military establishment.
3. The majority of Burma's people, especially the poorest, work within the informal economy, which is generally not dependent on foreign investment or markets. The impact of sanctions that are targeted at the formal economy would therefore be minimal for the vast majority of Burma's people.
4. The attempt by the United States to impact on the economic interests of the regime and its constituency has been reduced by the inaction of the EU, Asian states and the UN. There has never been any legal obstacle to Asian or European companies doing business in or with Burma. There are no EU measures that effectively challenge the economic interests of Burma's military establishment. A European Common Position on Burma has been in place since 1996. This Common Position has failed to include measures that would seriously threaten the Burmese military regime. It has not been fully implemented with regard to the bank accounts of the regime's economic entities. European bank accounts of companies owned by the regime should have been frozen but have not been.
5. Fifteen years of constructive engagement with the regime have failed to bring about a single democratic reform. Anti-sanctions advocates have ignored the uncompromising nature of the regime, the connection between the military's economic base and its political support, and the

¹ Xinhua News Agency. 9 April 2003.

leverage that sanctions would provide for the NLD in its negotiations with the military. Those opposed to sanctions ask that we continue to allow the regime to reap financial benefits through trade and investment – knowing that such benefits will feed the junta’s constituency and those associated with it. This has been the prevailing policy and has impeded any movement for reform within the military. Ultimately the anti-sanctions advocates are asking us to allow the long-term entrenchment of military rule in Burma with all the oppression and impoverishment this entails. Implicitly they argue that this is a price worth paying to save a limited number of jobs in a few targeted export sectors.

6. A combined strategy of weakening the regime’s support base while promoting a transition process supported by the UN can achieve real political change in Burma. This paper outlines the role played by targeted sanctions in getting the Burmese military regime to the negotiating table.

Recommendations

EU:

- To ban all European companies and citizens from investing in Burma;
- To ban the import of goods and services from enterprises owned by the military, military personnel and their associates;
- To ban the import of strategically important goods from sectors of the economy under state monopoly, such as gems and timber;
- To ban international financial transfers and transactions either by a citizen or an entity of an EU state or from the EU;
- Member states to push for UN Security Council mandatory sanctions as set out below.

UN:

- The imposition of targeted sanctions, including a mandatory arms embargo, investment ban and a ban on Burmese exports of strategically important goods, including gas, oil, gems and timber until there is irreversible progress toward political transition, or until a democratically elected government in Burma requests that they be lifted²;
- The UN Secretary General should take the lead in formulating a comprehensive road map³ with a specific timeframe (no later than 2006) backed by the force of a UN Security Council resolution and sanctions.

² For a detailed outline of possible United Nations Security Council measures, see Burma UN Service Office, National Coalition Government of the Union of Burma and The Burma Fund. October 2003. **The Crisis in Burma: An Agenda for the United Nations Security Council?**. Online at <www.ncgub.net/NCGUB/The%20Crisis%20in%20Burma%20An%20Agenda%20for%20United%20Nations%20Security%20Council.pdf>

³ National Coalition Government of the Union of Burma and National Council of the Union of Burma. 20 August 2003. **Building a Roadmap towards Democracy and Federalism in Burma, A “Framework of Ideas” on Scenarios, Issues and Negotiation Options for Dialogue and National Reconciliation**. Online at <www.ibiblio.org/obl/docs/NCGUB-roadmap-short.htm>.

1. Introduction

Burma, situated between India, China, Tibet, Laos, Bangladesh and Thailand, is one of the largest countries in Southeast Asia. For the last forty years it has been ruled by a military dictatorship with a reputation for brutality. In 1990 the National League for Democracy (NLD) won a landslide election victory in Burma. But the result has never been honoured. The NLD, led by Nobel Peace laureate Aung San Suu Kyi, has urged the international community to impose economic sanctions against the dictatorship. This document explains why.

2. The Problem

Burma's ruling military has an appalling record:

- Rape as a weapon of war against ethnic women and children⁴;
- Widespread use of forced labour described by the ILO as a 'crime against humanity'⁵;
- More than 1,350 political prisoners, many of whom are routinely tortured⁶;
- Between 600,000 and one million internally displaced people forced from their lands⁷;
- A continuous exodus of Burmese to neighbouring countries. Thailand alone absorbs an estimated million or more Burmese in search of better life opportunities;
- One of the largest armies in Asia despite having no external enemies⁸;
- Nearly half of the regime's budget is spent on the military and only two to four percent spent on health⁹;
- One in ten babies die before their fifth birthday¹⁰.

3. Fuelling the Oppression

There is currently no legal barrier preventing European or Asian companies from fuelling Burma's dictatorship through investment and trade. The regime survives through foreign investment, revenue from exports and illegal narcotics¹¹.

It is clear that fifteen years of constructive engagement, whereby businesses and governments

⁴ Shan Women's Action Network and Shan Human Rights Foundation. May 2002. **Licence to Rape**. Chiang Mai: SWAN and SHRF. Online at <www.shanwomen.org> and <www.ibiblio.org/obl/docs/License_to_rape.pdf>.

⁵ ILO Commission of Inquiry. July 1998. **Forced Labour in Myanmar (Burma). Report by the Commission of Inquiry appointed under article 26 of the International Labour Organization to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29)**. Online at <www.ilo.org/public/english/standards/relm/gb/docs/gb273/myanmar.htm>. For updated information on the practice of forced labour in Burma, please see CEACR 2002. **Observations Concerning ILO Convention No. 29, Forced Labour (1930) – Myanmar**, online at <ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=6601&chapter=6&query=%28C029%29+%40ref+%2B+%28Myanmar%29+%40ref&highlight=&querytype=bool&context=0>

⁶ Amnesty International. 22 December 2003. **Public Statement: Amnesty International's Second Visit to Myanmar**. AI Index: 16/037/2003. Online at <web.amnesty.org/library/Index/ENGASA160372003?open&of=ENG-MMR>

⁷ Global IDP Database. Updated November 2003. Available online at <[http://www.db.idpproject.org/Sites/idpSurvey.nsf/wCountries/Myanmar+\(Burma\)](http://www.db.idpproject.org/Sites/idpSurvey.nsf/wCountries/Myanmar+(Burma))>

⁸ The junta has expanded the military from 200,000 in 1988 to about 400,000 today. See Andrew Selth. 2002. **Burma's Armed Forces: Power without Glory**. Norwalk: Eastbridge, pp. 77-79.

⁹ Figures from UNICEF cited in Oehlers, Alfred and Alice Khin Saw Win. November 2003. "The Crisis in Burma's Public Health System". Unpublished document.

¹⁰ United National Development Programme: **Human Development Report 2003**. Online at <www.undp.org/hdr2003/>

¹¹ The Ministry of Defence is likely to account for a significant proportion of the central government's consumption of imported goods and services, without this being accounted for in national accounts. See Andrew Selth. 2002. **Burma's Armed Forces: Power Without Glory**. Norwalk: EastBridge, pp. 136-137.

cooperated with the regime in the hope that reform would result, have been a failure. The anti-sanctions advocates have ignored the uncompromising nature of the regime, the connection between the military's economic base and its political support, and the leverage that sanctions provide for the NLD in its negotiations with the military¹².

One of the most worrying consequences of investment and trade with Burma is the way it has enabled the regime to expand the armed forces. In 1988 there were 200,000 personnel, there are now an estimated 400,000. The regime's ultimate target is half a million military personnel¹³.

Military spending has fluctuated between a third and a half of the regime's budget during the 1990s. A country of around 50 million people has one of the largest armies in Asia, and yet has no external enemies.

Jane's Defence Weekly reported in July 2001 that Rangoon was buying 10 MiG-29 jet fighters from Russia for USD 130 million and that the money was coming from Thai gas purchases¹⁴. The down-payment for the MIGs (30 percent of the total) came in the same week that the state-owned Petroleum Authority of Thailand paid Burma USD 100 million in royalties for gas due to be piped ashore from fields in the Gulf of Martaban (operated by Total and Unocal). Before the Thais made this payment under the terms of a 1995 contract, Burma had almost depleted its foreign exchange reserves.

According to Robert Karniol, Asia editor of Jane's Defence Weekly¹⁵, the Russians were unwilling to sell aircraft to Burma until revenue began to flow from the Martaban gas-field, which is one of the country's few sources of significant foreign exchange.

According to the US Department of Commerce, the regime's ministry of finance has placed a ten percent tax on exports in foreign exchange¹⁶. Therefore in 2001 if Burma's legal exports were USD 2.782 billion, the regime could well have benefited by USD 278.2 million in taxation alone. Much more of the total export figure would have benefited the regime's support base.

4. The Costs

Military expansion and politically motivated expenditure have been carried out at the expense of Burma's people. The high proportion of the state budget spent on the military has resulted in an allocation to education and health that ignores the needs of Burma's people (see figure 1). In 2000, the World Health Organisation ranked Burma near rock bottom, 190 out of 191 countries, in health care delivery. The people of this resource-rich country are slipping further into poverty. UNICEF reports that 36 percent of children under five years in Burma are moderately to severely underweight¹⁷, while United National Development Programme (UNDP) reports one in ten babies die before their fifth birthday¹⁸.

¹² Philip S. Robertson: "Sanctions Are Working in Burma". Online commentary, Irrawaddy, 26 August 2003. Online at <www.irrawaddy.org/com/2003/com31.html>.

¹³ Andrew Selth. 2002. **Burma's Armed Forces: Power Without Glory**. Norwalk: EastBridge, pp. 77-79.

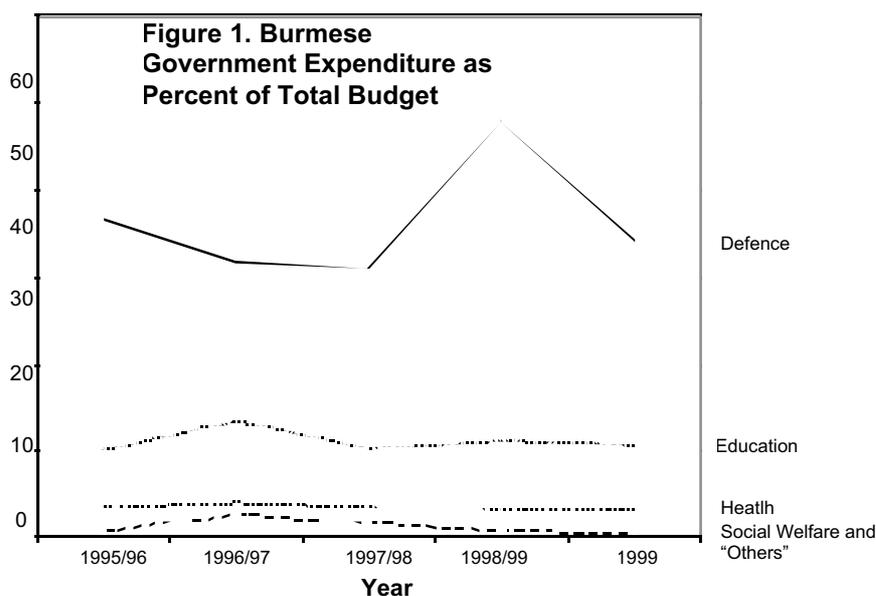
¹⁴ Bertil Lintner. "Rangoon free to spend gas money on anything it wants; Purchase of MIGs a total separate deal". Bangkok Post, 17 July 2001.

¹⁵ Bertil Lintner. "Rangoon free to spend gas money on anything it wants; Purchase of MIGs a total separate deal". Bangkok Post, 17 July 2001.

¹⁶ US Dept. of Commerce. **Burma Country Commercial Guide FY2002**. Online at: <www.ibiblio.org/obl/docs/CCG2002.pdf>/. Cited in Altsean Burma. 2003. **Ready, aim, sanction. Special Report**. Online at <www.altsean.org/ReadyAimSanction112003.pdf>

¹⁷ UNICEF: **At a Glance: Myanmar**. Online at <www.unicef.org/infobycountry/myanmar.html>

¹⁸ United National Development Programme: **Human Development Report 2003**. Online at <www.undp.org/hdr2003/>.



Note: The percentages are calculated through the combination of current and capital spending
 Source: International Monetary Fund. 'Myanmar: Recent Economic Development'. December 10, 1999.

In table 1, Thailand has been chosen for comparison with Burma because of the nations' shared history, long border, similar population size and resource endowment. Also, and though not without considerable problems of its own, Thailand provides a not unreasonable example of 'what might have been' in Burma. Perhaps surprising in the data of these selected social indicators is the extent to which Burma trails not only newly industrialised Thailand but the record of developing countries generally.

Table 1. Comparison between Burma and Thailand

	Burma	Thailand	All developing countries
Infant mortality rate per 1,000 births)	80	30	64
Infants with Low birth weight (%)	24	6	n/a
Public education expenditure (% GDP)	1.2	4.8	3.8
Public health expenditure (% GDP)	0.2	1.7	2.2

UNDP Human Development Report 2000, and Burma Economic Watch

There can be no doubt that the greatest obstacle to peace and prosperity in Burma is the military dictatorship itself.

The NLD has asked the world to cut the lifelines that keep the regime alive. Like Nelson Mandela and the ANC during the Apartheid regime in South Africa, Aung San Suu Kyi and the NLD have called for economic sanctions.

5. The Impact of Sanctions on Burma's People

The nature of Burma's economy is such that sanctions targeting foreign investments and international trade will impact on the regime while having a minimal impact on the majority of ordinary civilians.

Burma is a country with two economies, the informal and the formal. The informal economy is where

the majority of Burma's people, especially the poorest, produce, trade and work. In rural Burma (where 75 percent of the population live) people are largely involved in subsistence agriculture (see figure 2). In the urban areas, as in the rural, business units tend to be small and based around the extended family, involved in small production, trade or services. As economist Alfred Oehlers¹⁹ of Auckland University of Technology observes regarding the informal economy:

Forms and methods of business organisation and management are not very advanced, relying principally on established customs, practices and traditions... In the informal sector, the level of exposure to external markets is extremely small.

He²⁰ continues:

As sanctions will primarily affect the cross-border flows of goods, services and finance, this [informal] sector – with its low level exposure to external markets – will be relatively insulated from any consequences. The informal sector is by far the most important for ordinary people in Burma, around which, most of their lives revolve.

The formal economy is very different from the informal and the two are largely independent of each other. The formal economy relies much more heavily on foreign investment and markets. Enterprises in this sector are larger, more advanced in organisation and management. When classified by the management body, 80 percent of large-scale enterprises with more than 100 employees are state-owned or state-affiliated enterprises²¹. They are concentrated in the extractive industries, manufacturing, tourism, finance and banking²². The formal economy both historically and currently is in the main owned by the military establishment, their families and their associates. This was the case when these industries were nationalised after the military coup of 1962 and when they were 'privatised' during the 1990s. As Minoru Kiryu²³ notes:

"While deregulation of private investments has encouraged the establishment of many private enterprises and important export enterprises, many of the entrepreneurs involved are retired government officials and servicemen.

Therefore it is clear that the sanctions targeting the larger scale formal economy industries in Burma will impact more directly on the economic interests of the military and its support base while having a minimal impact on the vast majority of ordinary people. As Oehlers²⁴ observes:

Given the highly centralised nature of the ownership of and control within the Burmese economy, it may reasonably be presumed the negative consequences arising from sanctions will have greatest impact on the military and its closest associates. Far from the blunt and indiscriminate tool it is often accused of being, in the case of Burma at least, sanctions appear to be surprisingly well targeted and capable of exerting considerable pressure on the military regime.

¹⁹ Alfred Oehlers. 2003. **Sanctions and Burma: Revisiting the Case Against**. Unpublished paper.

²⁰ Alfred Oehlers. 2003. **Sanctions and Burma: Revisiting the Case Against**. Unpublished paper.

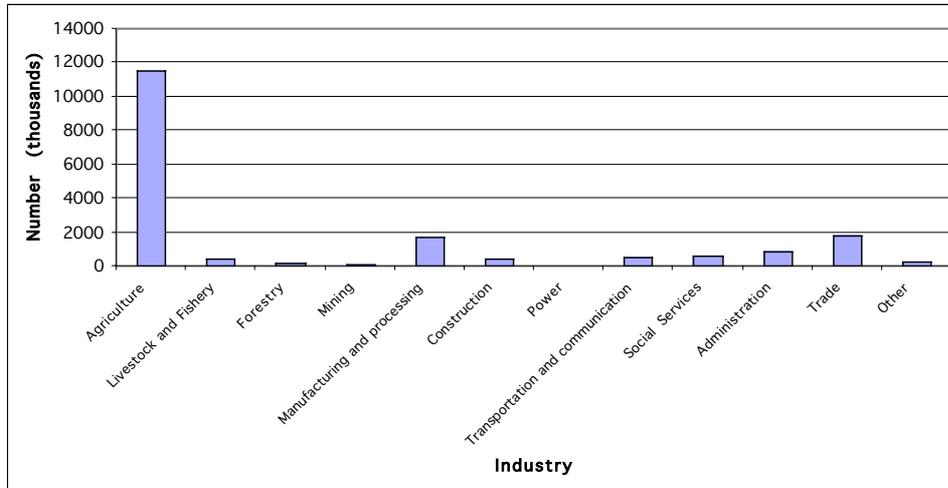
²¹ Minoru Kiryu. 1998. **ASEAN and Japanese Perspectives on Industrial Development and Reforms in Myanmar: A Survey of Selected Firms. A Report by the Sasakawa Peace Foundation**. Bangkok: White Lotus Press.

²² Alfred Oehlers. 2003. **Sanctions and Burma: Revisiting the Case Against**. Unpublished paper.

²³ Minoru Kiryu. 1998. **ASEAN and Japanese Perspectives on Industrial Development and Reforms in Myanmar: A Survey of Selected Firms. A Report by the Sasakawa Peace Foundation**. Bangkok: White Lotus Press.

²⁴ Alfred Oehlers. 2003. **Sanctions and Burma: Revisiting the Case Against**. Unpublished paper.

Figure 2. Employment in Burma 1997/1998



Source: IMF Staff Country Reports 99/134 'Myanmar Recent Economic Developments'

Additionally the system of approval of foreign direct investment is such that the military is able to control who benefits from large scale investment and investments in key sectors of the economy. Foreign investment that needs approval under Burma's Foreign Investment Law is administered by the Myanmar Investment Commission, in which a majority of the members come from the military cabinet itself. The practices of the Commission ensure that the regime is able to direct resources towards the quasi-military companies which dominate the economy, such as the Union of Myanmar Economic Holdings (UMEH). Finally, the state has a monopoly on exports of rice, teak, petroleum, natural gas, gems, pearls and a number of other items. The exports of these products require a permit from the Ministry of Commerce²⁵. Imposing sanctions on the import of these products will therefore have a direct impact on the military regime.

6. How the Regime Maintains its Support Base

The Union of Myanmar Economic Holdings Ltd (UMEH) and the Myanmar Economic Corporation (MEC) are the two major industrial conglomerates controlled by the military. They dominate key economic sectors. Shareholders of UMEH are limited to the military establishment²⁶.

According to the leaked 1995-96 annual report of UMEH, two of the main objectives of the UMEH are 'to support military personnel and their families' and 'to try and become the main logistics and support organisation for the military by gradually establishing industries.'²⁷

The UMEH has current investments in banking, tourism, import and export of foodstuffs, gems and jade mining and sales, construction materials, leasing of fishing boats, real estate, and general retail. The UMEH has also been managing the armed forces' pension funds, giving it a ready source of financing. By 1999 the UMEH had established nearly 50 joint ventures with foreign firms²⁸.

²⁵ US Dept. of Commerce. **Burma Country Commercial Guide FY2002**. Online at: < www.ibiblio.org/obl/docs/CCG2002.pdf />.

²⁶ According to the leaked 1995-96 annual report of UMEH, this conglomerate was formed April 27, 1990 as a 'special public company, with shareholders limited to the Directorate of Defence Procurement, Ministry of Defence, Defence Regimental Institutes, and other bodies of the Defence Services and War Veterans.', cited in Philip S. Robertson: "Sanctions Are Working in Burma". Online commentary. Irrawaddy, 26 August 2003. Online at <www.irrawaddy.com/2003/com31.html>.

²⁷ Philip S. Robertson: "Sanctions Are Working in Burma". Online commentary, Irrawaddy, 26 August 2003. Online at <www.irrawaddy.com/2003/com31.html>.

²⁸ Andrew Selth. 2002. **Burma's Armed Forces: Power Without Glory**. Norwalk: EastBridge, p. 147.

The MEC was established in order to shift defence expenses from the public to the private sector, i.e. in order to “decrease defence expenditure” while providing funds for the welfare of military personnel and to cover other military needs³⁰. The MEC is authorised to conduct business in almost any field of commerce and industry and is not bound by the laws that control other economic activities in Burma³¹.

The activities of UMEH and MEC are intended in part to build the military's resource base – enabling privileged economic treatment of army officers and their families. Economic sanctions will make it harder for the military to maintain its defence expenditures at the current level and will reduce the size of the 'economic pie' from which the regime can slice pieces for its patronage networks, and will create hardship for mid-level military families³². These form the main base of the junta's constituency, the people the regime needs to keep happy. If discontent occurs in this constituency the pressure for reform will be substantial.

7. The EU and Burma

EU policy on Burma is critical for two reasons, firstly because the EU has provided much of the investment that has buttressed Burma's dictatorship, and secondly because the EU's role at the UN and its relationship with ASEAN is key to the prospects for successful diplomatic initiatives on Burma.

EU investment in Burma has increased in importance over the last decade. Though estimates of Foreign Direct Investment (FDI) inflows to Burma vary according to different sources, it is clear that in the energy sector EU investment has been vital. Between 1995/6 and 1999/00 total actual FDI in the oil and gas sectors accounted for USD 1,531 million of a total actual FDI for all sectors of USD 2,765 million³³. In 1999 EU FDI accounted for 43 percent of all investment in Burma, and in 2000 the figure rose to 71.2 percent³⁴.

Apart from EU investment in Burma, the EU's trade relations with Burma have increased significantly over the last decade (see figure 3).

In total European from Burma and European investment to Burma between 1988 and 2002 has had a combined value of at least USD 4 billion.

The fact that many European companies remain active in Burma can also be gauged from looking at the lists of companies with links to Burma maintained by Global Unions. Of a total of 372 companies mentioned, 104 are European companies³⁵.

There are growing concerns that where the US has tried to cut off finance to the regime (see table 2), the EU will continue to be a source of economic comfort for Burma's military establishment.

³⁰ Maung Aung Myoe. 1999. **The Tatmadaw in Myanmar since 1988. An Interim Assessment**. Working Paper No. 342. Canberra: Strategic and Defence Studies Centre, RSPAS, p.13. Cited in Andrew Selth. 2002. **Burma's Armed Forces: Power Without Glory**. Norwalk: EastBridge, p. 147.

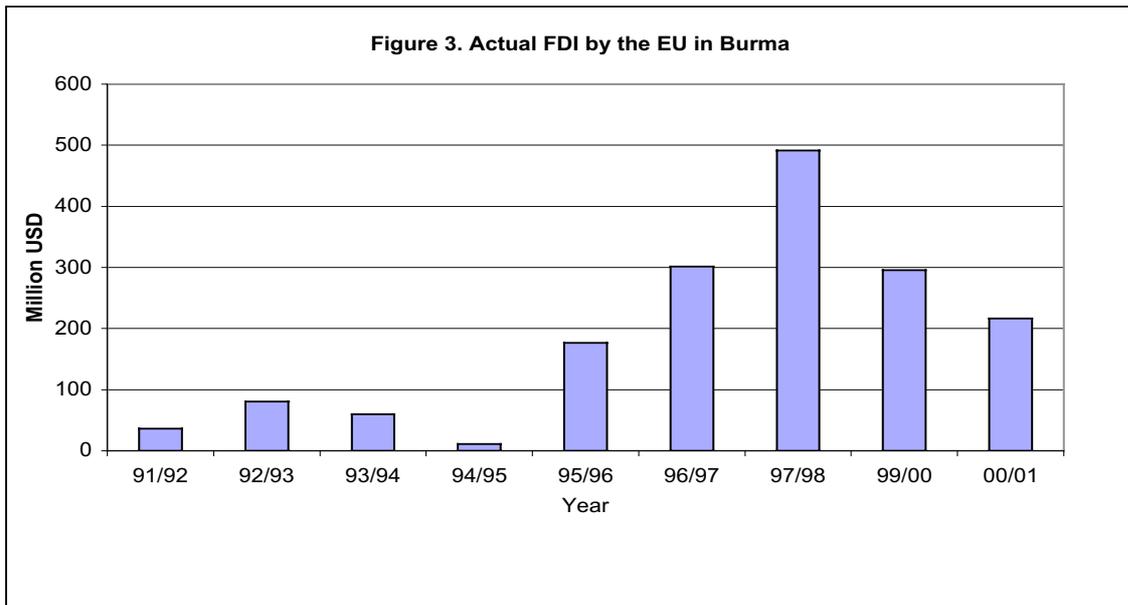
³¹ Andrew Selth. 2002. **Burma's Armed Forces: Power Without Glory**. Norwalk: EastBridge, p.147.

³² Philip S. Robertson: "Sanctions Are Working in Burma". Online commentary, Irrawaddy, 26 August 2003. Online at <www.irrawaddy.org/com/2003/com31.html>.

³³ International Monetary Fund. 1997. **Myanmar: Recent Economic Developments, Statistical Appendix. Table 39**. Source data provided by Myanmar authorities. Available at <netec.mcc.ac.uk/BibEc/data/imfifmscr1.html>

³⁴ International Monetary Fund and Burma Economic Watch tables. Online at <www.ibiblio.org/obl/docs/Tables%20and%20Data.htm>.

³⁵ Online at the Global Unions Website <www.global-unions.org/burma/>.



Source: Ministry of National Planning, Burma

Since the 2003 US ban on remittances, transfers and transactions denominated in dollars, the regime has increasingly looked to the euro as its currency for international commercial activity.

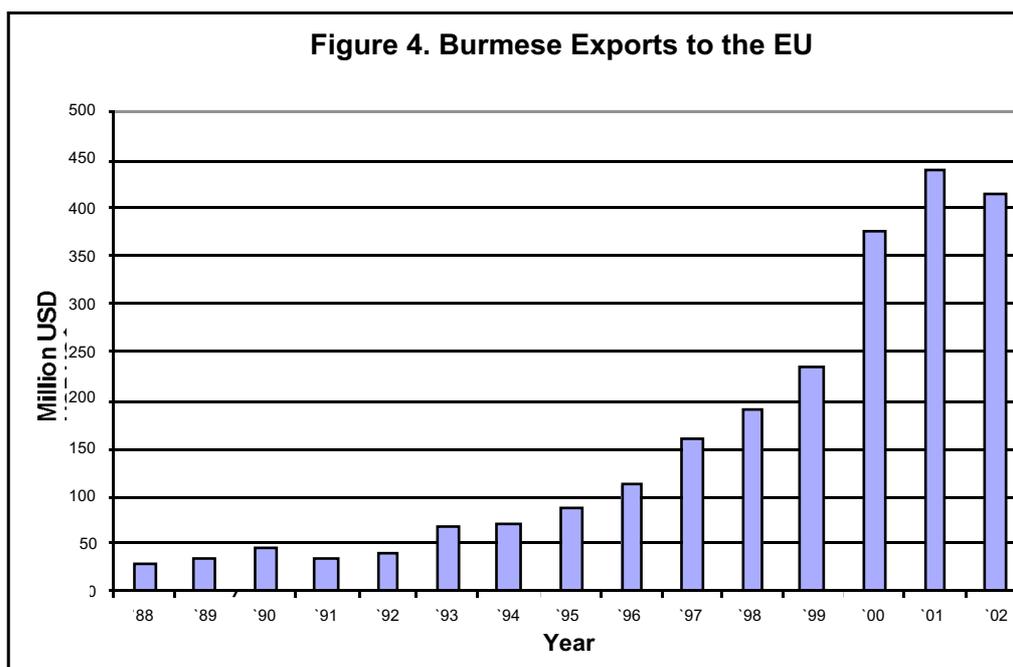
One particular action that should be taken is to apply pressure on those service providing companies that make international financial transactions possible, such as SWIFT, a business owned by leading financial institutions. In Burma only a handful of banks are allowed to handle foreign transactions, the Central Bank and three state-owned banks (the Myanmar Foreign Trade Bank, the Myanmar Investment and Commercial Bank, and the Myanmar Economic Bank).

By collaborating with Burmese banks, SWIFT is in the process of making it possible for Burma to conduct international transactions in euros and other currencies. As in the case with the ban on remittances by the US, international transfers and transactions by an entity or an individual from an EU state should in effect be banned.

We recall in this respect that the Financial Action Task Force on Money Laundering (FATF) has urged its members, which include the 15 EU member states as well as the European Commission, to impose counter-measures against Burma to enhance surveillance and reporting of international financial transactions as a consequence of the country's failure to co-operate in combating money-laundering.

Table 2. Impact of current US Measures

Current US measures	Effect on economic interest of regime/associates
1997 Ban on new investment	Allows pre-97 investors to continue and increase investment in the country i.e. Unocal. Has prevented an unquantifiable amount of new US capital to enter Burma.
2003 US import ban	Denies the regime and its associates export revenue and tax revenue.
2003 Ban on remittances	Significant impact on import/export businesses with dollar bank accounts, and on the state run banking system and the business associates of the regime.



Data compiled from Eurostat data for Burmese imports to the EU 1988 – 2002 as well as from national statistical bureaus in Sweden, Finland and Austria for 1988-1995.

8. The European Union's Response

Over the last decade the EU has taken a number of measures with regard to Burma. All of these measures are largely symbolic and have been related to the EU's political and aid relationship with Burma – they do not have the effect or intention of applying severe economic pressure on the regime. It is therefore wrong to come to the conclusion that sanctions have been tried and proven to have failed based on the European Common Position – which has been forwarded as an argument against sanctions *per se*.

There is nothing in the EU Common Position that threatens the regime's economic interests and therefore seriously represents any serious sanction on the Burmese government (see table 3). The EU Common Position, currently comprises:

- An arms embargo;
- The expulsion of military personnel attached to the diplomatic representations of Burma in the EU;
- A ban on non-humanitarian aid;
- A visa ban on all individual members of the SPDC, their families and some of their business associates;
- A freeze on the personal assets held in Europe by the SPDC, their families and some of their business associates³⁶;
- The suspension of high level governmental (ministers and officials at the level of political director or above) visits to Burma.

The EU has also withdrawn the preferential trading terms that Burma enjoyed as a developing country under the General System of Preferences³⁷, and made a statement echoing the view of Aung San Suu Kyi that tourism to Burma is inappropriate.

³⁶ No evidence has been provided by the European Commission suggesting that the regime has any significant assets in Europe.

³⁷ After overwhelming evidence of the existence of forced labour was found, the European Commission recommended on 18 December 1996 that the Council of Foreign Ministers suspend Burma's trade preferences under the GSP for industrial products. On 24 April 1997 GSP privileges for industrial and agricultural products were withdrawn from Burma in a unanimous vote of the European Council of Ministers. GSP benefits provided 2-5 percent discount on EU import tariffs and saved Burma no more than USD 365,000 in 1995.

Table 3. Impact of existing EU measures

Existing EU measures	Effect on economic interest of regime/associates so far
An arms embargo	None
The expulsion of military attachés	None
A ban on non-humanitarian aid	Negligible
A visa ban on SPDC and associates	None
Assets freeze on SPDC and associates	Negligible
Suspension of governmental visits to Burma	None
Withdrawal of GSP trade preference	Negligible

Furthermore, the EU Common Position has not been fully implemented with regard to the bank accounts of the regime's economic entities. European bank accounts of companies owned by the regime should have been frozen but have not been. For instance, the Common Position calls for an asset freeze for individuals and entities from Burma. However, attempts have not been made to freeze assets owned by the UMEH or the MEC.

If Europe is serious about moving Burma beyond a political stalemate it must deal with the stark facts that European trade and investment have acted to comfort the regime rather than push it towards reform. If Europe starts to put its own house in order while pushing for an internationalised diplomatic effort on Burma, it could bring very positive results.

9. The UN and Burma

In addition to stronger European measures, the EU should increase its efforts towards the imposition of United Nations Security Council mandatory sanctions against Burma.

Since 1991 Burma has been the subject of annual resolutions by the UN General Assembly outlining necessary reforms to move Burma from dictatorship towards democracy. The human rights situation in Burma has been the object of scrutiny by the UN Human Rights Commission every year since 1992. In 2000 the International Labour Organization called upon its three constituencies to review their relationship with Burma in order to ensure that they do not contribute to the continuation of forced labour. Time has now come for the EU to work for the enforcement of these various resolutions.

The UN Special Envoy to Burma and the UN Special Rapporteur on Human Rights in Burma play a key role in UN efforts to promote change in Burma. However, during the last three years of UN mediation in Burma the regime has refused to release all political prisoners, has continued the use of forced labour, continued the violent persecution of ethnic minorities throughout the country and refused to start a dialogue with the pro-democracy movement. On 30 May 2003, Burma's military dictatorship ended any pretense that it was ever genuine about reform. At a small town called Depayin, 500 miles north of the capital Rangoon, Aung San Suu Kyi's motorcade was attacked by the junta's paramilitary wing. Aung San Suu Kyi, other NLD leaders and party members were detained.

Eyewitness accounts tell of women being grabbed from cars, stripped naked and beaten to death, while others were chased and then killed. Aung San Suu Kyi's personnel tried to protect her, and were viciously beaten with sharpened bamboo staves. Some reports suggest that scores of people were murdered by the regime. At the time of writing, Aung San Suu Kyi remains under house arrest for the third time since taking up leadership of the democracy movement in 1988.

Newly appointed Prime Minister General Khin Nyunt announced a "Road Map" to democracy on 30 August 2003. This road map outlines seven steps, based on the reconvening of a National Convention to complete the drafting of a new constitution for Burma. It does not provide a timeframe for reforms. Neither does it formally provide a role for the NLD and the non-Burman nationalities in the country.

The road map refers to the constitution-drafting National Convention which was convened by the military regime in 1993. In November 1995 the NLD sent a letter to the military requesting that the proceedings of the National Convention be liberalised. The NLD began a boycott of the National

Convention in December following the rejection of its appeal by the military. All delegates from the NLD were subsequently expelled by the military from the National Convention and the National Convention was suspended in 1996.

The NLD together with participants from non-Burman ethnic groups have also disagreed over the six objectives, the 104 basic principles and the Detailed Basic Principles set by the junta that would allow the military to perpetuate its rule under the guise of a civilian government and even stage a coup if they felt the country was in danger³⁸.

The regime has rejected the UN's mediation role, if not by words then by deeds. It is now time for a more coherent international response to Rangoon's intransigence. In light of the critical situation in Burma, political intervention from the international community is essential to avert impending confrontation and bloodshed. The Secretary General, Kofi Annan, has called on the regime to release Aung San Suu Kyi and begin a "substantive" dialogue with her. He told the UN General Assembly that

*Unless the parties concerned are able to engage in substantive dialogue, the international community will have to conclude that the home-grown national reconciliation process no longer exists*³⁹.

In this case, he said the UN would review the situation and decide on further possible action. Mr Annan has set a deadline of 2006 for a transition to democratic rule in Burma, but has not outlined how this stated goal will be achieved. The UN Secretary General should take the lead in formulating a comprehensive road map⁴⁰ with a specific timeframe backed by the force of a UN Security Council resolution and sanctions under Chapter VII of the UN Charter. It is clear that essential elements of any UN sponsored roadmap must include the release of Aung San Suu Kyi and all political prisoners; a nation-wide ceasefire; freedom to operate for all political parties; and a dialogue between the NLD, the ethnic nationalities and the regime, as well as an end to forced labour and to forced relocations. In addition, the restrictive and undemocratic objectives and principles imposed by the military through the National Convention (ensuring continued military control even in a "civilian" state) should be set aside.

10. UN Sanctions - CHAPTER VII

Article 39 of Chapter VII of the UN Charter states:

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41⁴¹ and 42⁴², to maintain or restore international peace and security.

The Security Council has the authority to interpret this article, and the interpretation has historically been broad and political, rather than narrow and legal. In the cases of Haiti (1993) and Southern Rhodesia (1965), both countries were said to constitute a threat to international peace and security. Both cases constitute possible precedents to the UN Security Council taking up Burma.

³⁸ See Euro-Burma Office. **Highlights – The military constitution – Burma**. Undated and unpublished document.

³⁹ See **The Human Rights Situation in Myanmar. Report of Secretary-General to United Nations General Assembly**. A/58/325. Dated: 28 August 2003. <ods-dds-ny.un.org/doc/UNDOC/GEN/N03/482/57/PDF/N0348257.pdf?OpenElement or <http://www.ibiblio.org/obl/docs/SGreportA-58-325.pdf>>

⁴⁰ National Coalition Government of the Union of Burma and National Council of the Union of Burma. 20 August 2003. **Building a Roadmap towards Democracy and Federalism in Burma, A "Framework of Ideas" on Scenarios, Issues and Negotiation Options for Dialogue and National Reconciliation**. Online at <www.ibiblio.org/obl/docs/NCGUB-roadmap-short.htm>.

⁴¹ Article 41 states that "The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations."

⁴² Article 42 states that "Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations".

The disruption of democracy; the continued detention of Burma's elected representatives; the rapid expansion of Burma's army to the second largest in Southeast Asia; the continued scorched-earth policy against ethnic peoples close to external borders; the use of rape as a weapon of war against women and children; the mass forced displacement of civilian populations close to external borders producing large refugee flows to neighbouring countries; the widespread and systematic violation of human rights; the largest use of child soldiers in the world; the production and export of illegal narcotics to neighbouring countries; the spread of HIV/AIDS to neighbouring countries; and the looming humanitarian crisis resulting from the collapse of public services as resources are directed to military expenditure; all constitute a risk to internal and regional peace and stability.

The Security Council should recognise the situation in Burma is a threat to international peace and security and take action under Chapter VII of the United Nations Charter. The Council should condemn the military regime's egregious human rights abuses, its non-adherence to humanitarian law, and its refusal to engage in a substantive political dialogue with the pro-democracy movement and ethnic groups towards establishing a democratic government.

The momentum for the Security Council to address and take action on the situation in Burma should not halt merely if Aung San Suu Kyi is released from detention. The situation in Burma is dire and the plight of the Burmese people as a whole deserves the Council's attention⁴³.

11. What We Are Asking the EU and UN to Do

EU:

- To ban all European companies and citizens from investing in Burma;
- To ban the import of goods and services from enterprises owned by the military, military personnel and their associates;
- To ban the import of strategically important goods from sectors of the economy under state monopoly, such as gems and timber;
- To ban international financial transfers and transactions either by a citizen or an entity of an EU state or from the EU;
- Member states to push for UN Security Council mandatory sanctions as set out below.

UN:

- The UN Security Council should impose targeted sanctions, including a mandatory arms embargo, investment ban and a ban on Burmese exports of strategically important goods, including gas, oil, gems and timber until there is irreversible progress toward political transition, or until a democratically elected government in Burma requests that they be lifted;
- The UN Secretary General should take the lead in formulating a comprehensive road map⁴⁴ with a specific timeframe backed by the force of a UN Security Council resolution and sanctions.

⁴³ Burma UN Service Office, National Coalition Government of the Union of Burma and The Burma Fund. October 2003. **The Crisis in Burma: An Agenda for the United Nations Security Council?**. Online at <www.ncgub.net/NCGUB/The%20Crisis%20in%20Burma%20An%20Agenda%20for%20United%20Nations%20Security%20Council.pdf>

⁴⁴ National Coalition Government of the Union of Burma and National Council of the Union of Burma. 20 August 2003. **Building a Roadmap towards Democracy and Federalism in Burma, A "Framework of Ideas" on Scenarios, Issues and Negotiation Options for Dialogue and National Reconciliation**. Online at <www.ibiblio.org/obl/docs/NCGUB-roadmap-short.htm>.

Summary: Your Questions Answered

1. What right do we in Europe have to impose sanctions on another country?

The NLD, led by Aung San Suu Kyi, won 82 percent of the seats in Burma's 1990 election. It has called for international sanctions against the regime. All the major ethnic leaderships from Burma have whole-heartedly supported the case for sanctions. The mandate for such sanctions comes from within Burma and could not be clearer or more legitimate.

2. Won't sanctions harm the Burmese people?

The sanctions we are calling for will cut off investment to Burma and ban a limited number of exports, such as gems, from entering the EU. Three quarters of Burma's people live off the land, the vast majority do not work in industries targeted by these sanctions. It is clear therefore that only a minority of the population will be affected.

A minority of ordinary people will be affected but this has to be weighed against the plain fact that, every day women are raped, villages are burned, prisoners are tortured, and Burma's 50 million people are further impoverished by this regime. We are faced with a stark choice: allow the regime to obtain finance that will ensure its survival, thereby condemning Burma to continued violence and impoverishment; or make a concerted effort to cut the regime's financial lifelines while limiting the effects on ordinary people. The first strategy is a surrender to tyranny; the second is a struggle for the freedom and prosperity of a whole nation.

What will harm the Burmese people is the lack of will and ability of the international community to act in a concerted manner and impose sanctions, thus allowing the Burmese military to perpetuate its rule.

3. Haven't sanctions already failed to change Burma?

The US is the only country to have imposed tough economic sanctions on Burma. These sanctions have only been in place since July 2003. Targeted sanctions by the EU or by the international community as a whole have not really been tried yet and cannot be said to have failed. Burma's export of gas, timber and gems continues to earn vital revenue for the regime. The total value of exports in 2002 was USD 2.98 billion⁴⁵.

4. Isn't it more effective to engage with the military?

Sanctions are an economic tool employed for political purposes. We are asking for sanctions in combination with diplomatic intervention in order to apply the maximum impetus for political reform and prevent the regime from playing one country against another.

It is a myth that you can't employ both sanctions and diplomatic engagement to promote political change in Burma. Over the last two years the US, EU and Asia held back from taking action against the regime hoping that it would respond to a softer approach. The regime responded by imprisoning Aung San Suu Kyi and by massacring a large number of her supporters⁴⁶. There must be continued efforts to persuade the regime to change, but at the same time there must be equal effort made to cut its financial lifelines. It is now time for tough action backed by the UN Security Council and for an international diplomatic effort led by the UN Secretary General.

5. How will sanctions influence the generals?

The regime depends on foreign investment and foreign trade for a substantial part of its income. It is essential to cut those lifelines in order to force the regime to the negotiating table. As long as the regime and its associates are financially secure they have no incentive to reform. Sanctions will affect

⁴⁵ Xinhua News Agency, 9 April 2003.

⁴⁶ On May 30, 2003 the regime's paramilitary forces attacked a motorcade carrying Aung San Suu Kyi and her supporters. Up to 100 NLD supporters were beaten to death in the attack.

the regime's own support base far more acutely than they will affect the majority of Burma's people.

6. *Shouldn't we be trying to strengthen the pro-democracy forces in Burma?*

The extension of economic sanctions provides critical bargaining leverage to Burma's democrats. The NLD has consistently supported stronger economic sanctions by the international community. In a situation where the NLD has only principles and popular support, the power to reduce the burden of international sanctions is a significant bargaining chip⁴⁷. Sanctions are one way to strengthen Burma's democrats and should be accompanied by other efforts to support their struggle, in consultation with the NLD.

The Burmese people are suffering from the mismanagement of their country's resources and the dictatorship's unwillingness to prioritise basic needs in health and education for the population over its own needs and survival. Again, we are not asking for sanctions isolated from other political instruments. Sanctions targeting the regime should also be combined with efforts to assist the people of Burma thus in effect empowering them to be part of an effort to bring democracy to Burma.

7. *Surely Europe and the West don't have influence because they don't have significant trade or investment in Burma?*

During 1990-2000 Western countries disbursed 65 percent of total actual foreign direct investment to Burma⁴⁸. Some of the regime's most significant business partners have been Western multinationals including, Total (French), Unocal (US) and British American Tobacco (UK)⁴⁹.

8. *Don't we need to be sure that sanctions will work before imposing them?*

We have to be clear what we mean by 'work'. Some European governments have placed a unique condition on any sanctions policy for Burma; that sanctions on Burma should only be imposed if we can first be sure that they will 'work'. There are in fact relatively few domestic or foreign policy decisions that demand a policy is absolutely guaranteed to work before implementation. European states have supported EU trade sanctions against other states which certainly don't fulfil this criteria. Most policies are formulated out of a rational analysis of the issue at hand, with an understanding of the limitations of what they can reasonably be expected to achieve.

Furthermore Burma's democracy movement does not see sanctions as a quick fix for regime change. Sanctions are but one vital tool necessary to force the regime to the negotiating table. Sanctions – combined with a vigorous diplomatic initiative – will assist the pragmatists in Burma's military and amongst its associates to push for change.

9. *If the EU pulls out and closes its markets, won't Asian companies and Asian markets just fill the gaps?*

It is often reported that the majority of investment in Burma comes from the Asian region. Again, however, this is only true in terms of commitments to invest, with Asian countries committing approximately USD 4.26 billion, or about 60 percent of total commitments since 1990. In the last ten years Western countries only committed about USD 2.89 billion. However, Western countries disbursed more than 80 percent of the investments that they committed. Asian countries only disbursed about 31 percent of committed investment⁵⁰.

While European investments have been some of the strategically most important to the regime, the

⁴⁷ Philip S. Robertson: "Sanctions Are Working in Burma". Online commentary, Irrawaddy, 26 August 2003. Online at <www.irrawaddy.org/com/2003/com31.html>.

⁴⁸ See Foreign Direct Investment and the Garments Industry in Burma. Burma Economic Watch, June 2001. Online at <www.ibiblio.org/obl/docs/FDI_&_Garments_Industry_in_Burma.htm>

⁴⁹ On 6 November 2003, BAT announced it was pulling out of Burma.

⁵⁰ Burma Economic Watch. June 2001. **Foreign Direct Investment and the Garments Industry in Burma**. Online at <www.ibiblio.org/obl/docs/FDI_&_Garments_Industry_in_Burma.htm>.

recent exodus of companies as well as the decision of many not to invest in Burma, provides an opportunity to further undermine the regime's support base. Asian investors have not flooded into the investment gap. Instead many have taken a cautious approach to investment in Burma as a result of the regime's mismanagement of the economy. However, their attitude may well change and this is why Europe must, in addition to applying an EU investment ban, push for UN mandatory sanctions on Burma. Until such UN sanctions can be put in place, the EU can ensure that no major European company tips the economic balance of power further towards the regime's advantage.

10. *Won't Burma's neighbours like China and India break any embargo?*

UN Security Council sanctions are legally binding, and would have to be respected by all of Burma's neighbouring countries. In the absence of UN measures, EU sanctions could ban investment in Burma from EU countries and the import of certain commodities into the EU.

If China looks carefully at the situation in Burma, it will see that its key interests are not well served by the current military regime. China's military security may be served by maintaining good relations with the military government in Rangoon. But increasingly Burma also poses some real problems for China, and particularly Yunnan province. The Burmese regime's position is unsustainable in the longer run with the threat of instability and civil unrest becoming a real possibility; drugs and HIV/AIDS are crossing the border into China, and Burma's economy is flagging. It is no longer a promising market for Chinese produce, nor can it be a driving force for the regional economy, particularly for Yunnan and neighbouring provinces. The regime offers China less than may be assumed, and China's self interest is becoming less well served by the ruling military in Rangoon.

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