

## EU Restoration of Myanmar Preferential Trade Regime: Neglect of Human Rights Concerns?

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On 19 July 2013, the European Union brought Myanmar back into the so-called "Everything but Arms" regime, a preferential trade regime within the "Generalised Scheme of Preferences". Although the EU claims this decision will facilitate the country's path to democracy and development, it has been strongly criticised by numerous human rights organisations.

Trade preferences with the EU had been suspended since 1997 as a result of the country's serious and systematic violations of core international conventions on forced labour. Although some political and economic reforms have been made by the new democratic government, the human rights situation in Myanmar is still dire. Concrete examples include the severe restriction of humanitarian access to displaced persons, repressive laws still in use and reported involvement of state security forces in violent episodes against Rohingya Muslims. The lifting of sanctions by the EU brings into question the priorities, intent and form of its foreign policy decisions.

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*This paper expresses the view of the author and not the European Institute for Asian Studies*

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## Introduction

On 19 July 2013, the European Union brought Myanmar back to the so-called "Everything but Arms" regime, a preferential trade regime within the "Generalised Scheme of Preferences" (GSP). This special advantageous trade arrangement will grant duty-free and quota-free access to the European market for all Myanmar products except for arms and ammunition. Although the EU claims this decision will facilitate the country's path to democracy and development,<sup>2</sup> it has been strongly criticized by numerous human rights organisations.

Trade preferences with the EU had been suspended since 1997 as a result of the country's serious and systematic violations of core international conventions on forced labour. Later, in June 2012, an International Labour Organisation (ILO) decision recognised progress in the labour rights situation in Myanmar. Hence, the EU suspended all sanctions against Burma for one year, with the exception of its arms embargo, and outlined benchmarks to measure progress and lift sanctions in the future. Some of these benchmarks were human rights related, among them improved access for humanitarian assistance and improved treatment of ethnic Rohingya Muslims. Despite the fact that many of these goals currently remain unfulfilled, the legal act to re-instate the trade preferences entered into force on 19 July 2013.<sup>3</sup>

## Economic side of the decision

The EU's GSP allows developing country exporters to pay lower duties on their exports to the EU. The "Everything but Arms" regime, the most advantageous of the three regimes within the GSP, is thought to be applied to least developed countries. Nonetheless, this preferential access to the EU market could be suspended again if Myanmar engages in serious and systematic violations of core human rights or labour rights conventions.<sup>4</sup>

The application of "Everything but Arms" regime brings economic benefits to Myanmar. With the reactivation of the trade preferences scheme and its retroactive effect, exporters in Myanmar will be able to claim back the import duties charged as of 13 June 2012, the day when the ILO Conference first recognised labour right progress in Myanmar. This trade arrangement facilitates access to EU markets and allows beneficiary countries to boost their economic growth. According to EU Trade Commissioner Karel De Gucht, "[t]his has the potential to make a huge difference to the country's economic development and to bring real benefits to the people there".<sup>5</sup> Myanmar's President Thein Sein agrees: "The suspension of EU and U.S. sanctions would help greatly with our difficulties".<sup>6</sup>

Not only for Burma, the reactivation of the GSP is attractive for EU companies as well. The lifting of sanctions gives more certainty to European firms that wish to invest in the

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<sup>2</sup> Europa Press Release. (2013). *EU re-opens its market to Myanmar/Burma*. Retrieved 23 July 2013 from [http://europa.eu/rapid/press-release\\_IP-13-695\\_en.htm?locale=en](http://europa.eu/rapid/press-release_IP-13-695_en.htm?locale=en).

<sup>3</sup> Humans Rights Watch. (2013b). *EU: Ending Sanctions Undercuts Burma's Rights Progress*. Retrieved 23 July 2013 from <http://www.hrw.org/news/2013/04/22/eu-ending-sanctions-undercuts-burma-s-rights-progress>; Europa Press Release, *EU re-opens its market to Myanmar/Burma*.

<sup>4</sup> European Commission. (2013). *Generalised Scheme of Preferences (GSP)*. Retrieved 23 July 2013 from [http://ec.europa.eu/trade/policy/countries-and-regions/development/generalised-scheme-of-preferences/index\\_en.htm](http://ec.europa.eu/trade/policy/countries-and-regions/development/generalised-scheme-of-preferences/index_en.htm).

<sup>5</sup> Europa Press Release, *EU re-opens its market to Myanmar/Burma*.

<sup>6</sup> Financial Times. (2013b). *EU set to lift most Myanmar sanctions*. Retrieved 24 July 2013 from <http://www.ft.com/intl/cms/s/0/abf1504c-a8fc-11e2-bcfb-00144feabdc0.html#axzz2ZrTxCMyp>.

Southeast Asian country. Myanmar is undoubtedly interesting for investors: It is a market of 60 million people, it has significant natural resources and borders two economic giants, China and India. Experts think that extractive industries, banking and the telecom sectors will attract most of the European attention. For the time being, some important multinationals have expressed their interest in Myanmar: Unilever, Coca-Cola, Ford Motor Co, Nestle SA, Visa International and MasterCard have announced investments in Myanmar.<sup>7</sup>

### **Social and human rights concerns of the decision**

Nonetheless, it should be kept in mind that although Myanmar's new status opens up business possibilities for foreign companies, some practical difficulties and doubts about entering the market still remain. The main problems entrepreneurs would find are: poor infrastructure, unclear regulatory environment, doubtful political stability, the possibility of renewed sectarian violence and uncertainty over U.S. sanctions against the country.<sup>8</sup> On top of that, companies and their home states must take into account that their actions may contribute indirectly to internal conflict, human rights violations, environmental destruction and corruption. Aware of these possible negative impacts of foreign investment, the U.S. established the Responsible Investment Reporting Requirements, which obligate U.S investors to submit public and confidential reports of their performance in Myanmar. The EU, on the other hand, has unilaterally and unconditionally suspended most of its sanctions without imposing any binding reporting requirements.<sup>9</sup>

Hence, criticisms of the EU decision are numerous. A Human Rights Watch report released on 22 April 2013,<sup>10</sup> calls into question the sufficiency of reforms achieved by the new government that were used as a justification for the restoration of the preferential trade regime. The report alleges severe restriction of humanitarian access to displaced persons in areas controlled by the Kachin Independence Army (KIA) and a very slow pace of legal reform which means that many repressive laws are still in use. Not only that, the report denounces the involvement of state security forces during last year's violence in Arakan state. From the point of view of Human Rights Watch, "[t]he EU's decision to eliminate most of the remaining sanctions on Myanmar ignores strong evidence of ethnic cleansing of Rohingya Muslims by the government".<sup>11</sup> Therefore, what seems logical is that sanctions should have been lifted gradually – instead of definitively and unconditionally – in response to positive steps based on the benchmarks laid out in 2012. "There is no proportionality in the EU's current approach", said Mark Farmaner, director of the UK Burma Campaign. For human rights defenders, the lifting of EU sanctions only

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<sup>7</sup> Reuters. (2013). *The hard yards begin in Myanmar's quest for foreign investment*. Retrieved 24 July 2013 from <http://www.reuters.com/article/2013/06/09/us-myanmar-reforms-idUSBRE9580H120130609>; Euroactive.

(2013). *EU lifts Myanmar sanctions, except arms embargo*. Retrieved 23 July 2013 from <http://www.euractiv.com/global-europe/eu-lifts-myanmar-sanctions-arms-news-519303>; Financial Times, *EU set to lift most Myanmar sanctions*.

<sup>8</sup> The Wall Street Journal. (2013). *Sanctions lift against Myanmar*. Retrieved 23 July 2013 from <http://online.wsj.com/article/SB10001424127887323735604578438632149787290.html>.

<sup>9</sup> Earth Rights International. (2013). *U.S., European Economic Policy on Myanmar Pulled Between Two Extremes*. Retrieved 24 July 2013 from <http://www.earthrights.org/campaigns/us-european-economic-policy-myanmar-pulled-between-two-extremes>.

<sup>10</sup> The Human Rights Watch report "All You Can Do is Pray" can be found at <http://www.hrw.org/reports/2013/04/22/all-you-can-do-pray-0>.

<sup>11</sup> Deutsche Welle. (2013). *EU criticized for lifting Myanmar sanctions*. Retrieved 25 July 2013 from <http://www.dw.de/eu-criticized-for-lifting-myanmar-sanctions/a-16765155>; Human Rights Watch, *EU: Ending Sanctions Undercuts Burma's Rights Progress*.

corresponds to the interest of the economic forces within the EU, which have cast aside Myanmar's serious human rights concerns.<sup>12</sup>

The state of the ethnic conflict going on in Myanmar is certainly something that should not be cast aside. As a result of a 1982 law which excluded the Rohingyas from citizenship, about 800,000 people are considered stateless by the Myanmar government. The Human Rights Watch report counts more than 125,000 Rohingya and other Muslims as displaced since the beginning of the violent episodes in June 2012. Each attack leaves daunting consequences: The assault in Meiktila last March left 40 people killed, 61 wounded, and resulted in the destruction of at least 838 buildings and the displacement of over 12,000 people.<sup>13</sup> Another attack in Yan Thei resulted in the machete murders of 70 villagers; 28 of them children, nearly half of whom were under the age of five.<sup>14</sup> Currently, more violent attacks are occurring in other Muslim villages in Myanmar. Some human rights platforms even define it as genocide. On top of that, refugee camps have been set up, but thousands of Rohingya in these camps and other areas have been denied freedom of movement and suffer persistent persecution and violence from local authorities, with the backing of state security forces. In view of this, many have attempted to flee to neighbouring countries, however, Bangladesh has refused to host new refugees and Thailand, Malaysia and Sri Lanka have turned arriving boats away from their shores, causing more casualties at sea.<sup>15</sup>

## Conclusion

Based on the above, it seems clear that the EU decision to lift sanctions on Myanmar was premature. The trade ban was established on the basis of systematic violations of human rights, and this issue is not being completely addressed by Myanmar's government. Developments that justified this decision have been mainly economic and political, but not social. And as a consequence of the ban lifting, the EU has lost its principal leverage to pressure the government to improve the country's human rights situation. This shows that the EU – in contradiction to its image of a human rights defender – is still choosing to promote economic engagement without sufficient regard to the human rights state of the country they are dealing with.

The real priority for the international community should not be the provision of trade facilities, but to react and address such a dramatic humanitarian situation. With that aim in view, pressure on the government to put an end to violence and to bring a solution to the uncertain legal status of almost a million people must be continued. It is necessary that neighbouring countries continue to be willing to offer shelter to the arriving refugees. The EU should call on member states to create and activate resettlement programs for long-term refugees.<sup>16</sup> More support and facilities should be granted to non-governmental organisations and UN agencies such as the UN High Commissioner for Refugees working in the field.

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<sup>12</sup> Financial Times. (2013a). *Critics hit out at EU move on Myanmar*. Retrieved 25 July 2013 from <http://www.ft.com/intl/cms/s/0/4e07bd72-ab86-11e2-ac71-00144feabdc0.html#axzz2ZrTxCMyp>.

<sup>13</sup> Human Rights Watch. (2013a). *Burma: Satellite Images Detail Destruction in Meiktila*. Retrieved 25 July 2013 from <http://www.hrw.org/news/2013/04/01/burma-satellite-images-detail-destruction-meiktila>; Financial Times, *Critics hit out at EU move on Myanmar*; Human Rights Watch, *EU: Ending Sanctions Undercuts Burma's Rights Progress*.

<sup>14</sup> Euroactive, *EU lifts Myanmar sanctions, except arms embargo*.

<sup>15</sup> Deutsche Welle, *EU criticized for lifting Myanmar sanctions*.

<sup>16</sup> The Czech Republic implemented a specific resettlement strategy for the Burmese population between 2008 and 2010, but no Muslims have been among the beneficiaries. More information on EU resettlement programs can be found at <http://www.know-reset.eu>.

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