

Possibility of sanctions against Myanmar? Views from the internet on possibility of sanctions, and what US sanctions would include (former US sanctions on Myanmar and other countries in comparison)

In October 2016, President Barack Obama formally announced the lifting of decades-long trade sanctions against Myanmar by termination of the emergency order on the economic and financial sanction by the Department of the Treasury's Office of Foreign Assets Control.

However, the conflict in Rakhine State has sparked international outcry. Myanmar has been accused of ethnic cleansing by the United Nations High Commissioner for Human Rights (UNHCR) which could lead to the US re-imposing sanctions on Myanmar.

Alternatively, the US State Department may consider continuing its policy of targeting sanctions on individuals, rather than targeting Myanmar as a whole. The Trump administration earlier levied sanctions on the Chief of Myanmar's western military command. However, the administration is under pressure from human right activists and lawmakers to impose more sanctions on those involved in the brutal military crackdown in August 2017 in Rakhine State.

The European Union has also accused Myanmar of "serious and systemic" human rights violations in response to attacks on security forces in northwest Myanmar last year that sent nearly 700,000 Rohingya Muslims fleeing to neighbouring Bangladesh.

Most recently in August 2018, the US imposed sanctions on four commanders from the Myanmar military and border guard police, plus two military units, for their alleged involvement in ethnic cleansing in Rakhine State. The sanctions were imposed on military commanders Aung Kyaw Zaw, Khin Maung Soe, and Khin Hlaing, and border police commander Thura San Lwin, in addition to the 33rd and 99th Light Infantry Division. The sanctions call for a freeze of any US assets held by these individuals, a prohibition on Americans doing business with them, and travel bans.

However, the US government policy is controversial since it did not target high levels of Myanmar's military, and stopped short of calling the anti-Rohingya campaign as crimes against humanity or genocide, which has been a subject of debate within the US government.

On 17 August 2018, US senators appealed to Secretary of State Mike Pompeo to publicize a State Department report detailing atrocities conducted against the Rohingya, and to submit the report to the Department's Office of the Legal Adviser to determine whether crimes against humanity and genocide were perpetrated by security forces in Myanmar.

The military in Myanmar has denied accusations of ethnic cleansing and says its actions were part of a fight against terrorism. According to Mr. Matt Pottinger, Senior Director for Asian Affairs at the White House National Security Council, the administration led by President Donald Trump is not considering broad economic sanctions against Myanmar, but is looking at narrow sanctions "aimed at individuals who we believe the evidence shows should be held accountable for some of the atrocities" in northern Rakhine State. Therefore, the UN, EU and US are reviewing information and discussions with various stakeholders in the implementation of their sanctions policy.

A Decade Long US Sanction against Myanmar

The US administration started imposing sanctions against Myanmar in 1997. The sanctions were a response to the military junta's neglect of the results of the May 1990 elections, in which a landslide was won by the opposition National League for Democracy (NLD) party. Subsequent sanctions in 2003 were a result of the ugly incident in central Myanmar called Depayin, whereby government-authorized thugs killed a disputed number of Aung San Suu Kyi's entourage and harassed her. After that, there were the 2008 sanctions resulting from the "Saffron Revolution" uprising by Buddhist monks that was brutally broken up by the military government. The sanctions restricted new investments after 1997, travel to the US by senior administration and economic allies and their families, all imports except educational materials, arts and handicrafts, restrictions on jade and ruby imports, and the use of any US banking facility. International NGOs that used dollars for programming or staff's salaries had to request and receive special warrants from the US Treasury Department. Given that international NGOs, such as USAID, and those from the European Union, as well as the United Nations in Myanmar, may be affected by restrictions on the dollar, re-imposing sanctions on Myanmar would have a significant effect on humanitarian assistance and support for economic development. Thus, it is hoped that the US will not impose sanctions like before.

Economic Impact

Sanctions aim to restrict the commercial relationship between the imposing country and the target country. In the past, economic sanctions against Myanmar focused on asset freezes, trade embargoes, and financial restrictions to inflict financial losses, which is called comprehensive sanction by the United States. As a result of the Generalised Scheme of Preferences (GSP) granted after sanctions were lifted, the US and EU bilateral trade with Myanmar gradually increased. The Ministry of Commerce of Myanmar figures show that the US –Myanmar yearly bilateral trade volume is over US\$ 718 million in the 2017-2018 fiscal year, and that EU trade value reached 2,098 million Euros in 2017.

With regard to EU-Myanmar trade, Myanmar can enjoy GSP while also exporting fisheries, rice, pulses, agro products, bamboo and rottan finished projects, forestry products, apparels, as well as finished industrial goods. The data clearly shows that the textile industry of Myanmar (one of its principal exports) will be hit the most by sanctions. In 2012, garment exports constituted over 10% of all export revenue generated. It is the most labour intensive sector of Myanmar, which employs over 450,000 workers. It also generates thousands of job opportunities for families in Myanmar. In 2017, the garment products export reached USD 2.7 billion, which is 25% export growth from previous year. Therefore, business in this sector are concerned that sanctions would affect their workers and business in the near future.

However, a study showed that sanctions may not affect Myanmar trade. After the sanctions enforcement in 2003, Myanmar's export to the United States dropped to zero. However, an International Food Policy Research Institute (IFPRI) study shows that the impact of sanctions on Myanmar's trade was insignificant at the aggregate level because Myanmar diversified both its products and its trading partners. In 2001 before the sanctions, Myanmar

trade stood at \$ 6.28 billion, and increased to \$ 6.54 billion in 2003. The overall trade then rose to \$ 7.1 billion in 2004 and \$8.57 billion in 2006. Therefore, the US imposed sanctions may not affect Myanmar trade since Myanmar has diversified its trade partners.

Although Myanmar is opening up its economy and growth is rebounding in Myanmar, the possibility of western sanctions over the Rakhine crisis is a threat to foreign investment in Myanmar. The government spokesperson U Zaw Htay stated that due to the Rakhine crisis, tourism has decreased, investments and FDI have likewise decreased and the government is working hard to ensure macroeconomic stability. Foreign investment peaked at USD 9.4 billion in 2015-2016, dropped to USD 6.6 billion in 2016-2017, and 5.7 billion in 2017-2018. The Rakhine crisis is one of the causes for the decline in FDI in Myanmar.

Possibility of US Re-imposing Sanctions against Myanmar

In 2012, the US lifted several sanctions against Myanmar to support its transition from a military junta to democratic government. At present, the US is taking minor steps on the Rakhine Crisis and has been criticized for its slow response. Previously, the US sanctioned only one individual: Maung Maung Soe, Chief of Myanmar's military western command who oversaw operations against the Rohingya. The US organized a team to obtain information and conducted interviews with many refugees on the Bangladesh side. Sigal Mandelker, Treasury Undersecretary for Terrorism and Financial Intelligence, stated that "Burmese security forces have engaged in violent campaigns against ethnic minority communities across Burma, including ethnic cleansing, massacres, sexual assault, extrajudicial killings, and other serious human rights abuses."

Most recently, the US has imposed additional sanctions on four Myanmar military and police commanders and two army units, accusing them of "ethnic cleansing against Rohingya and widespread human rights abuses." However, the international community and human rights groups question why US sanctions do not target high military officials. One source informed that the debate at the Treasury is now over how the Myanmar military, which still holds power in the country, would react, and whether sanctions would influence their behavior, or isolate them and push them further into China's orbit. Thus, the focus is more on targeting individuals involved in war crimes and human rights abuses, rather than on targeting Myanmar as a country.

For further details on the sanctions process at the UN, EU and US, please kindly see the annex.

What is the sanctions process at the United Nations?



What is the sanctions process of the European Union?

Adopting Council Decision

- The EU imposes sanctions (known more commonly in the twenty eight-member bloc as restrictive measures) as part of its Common Foreign and Security Policy.
- Restrictive measures are laid down in Common Foreign and Security Policy (CFSP) Council decision.
- A Proposal is made by the High Representative of the Union for Foreign Affairs and Security Policy
- The proposal is then examined and discussed by the Council working party responsible for the geographical region, Foreign Relations Counsellors Working Party (RELEX), if required, the Political and Security Committee (PSC), and the Committee of Permanent Representatives (COREPER II)
- If the Council Decision includes an asset freeze and/or other types of economic and/or financial sanctions, those measures need to be implemented in a Council regulation.

Adopting Council Regulation

- Based on the CFSP Council decision, the High Representative and the Commission present a joint proposal for a Council regulation.
- The joint proposal is examined by RELEX and forwarded to COREPER and the Council for adoption.
- The Council then informs the European Parliament of the adoption of the Council regulation.

Entry into Force

- The Council decision enters into force upon publication in the Official Journal of the European Union.
- In the case of an asset freeze, the CFSP Council decision and the Council regulation are adopted together to allow for both legal acts to produce their effects at the same time.
- Measures laid down only in the CFSP decision, such as arms embargoes or travel restrictions, will be implemented by the member states, while the Commission will verify that the member states have implemented the regulations in a proper and timely manner.

Notification Procedure

- Persons and entities subject to an asset freeze or travel restrictions (listed persons and entities) are notified of the measures that have been taken against them:
 - individually by letter if their address is available
 - by means of a notice published by the Council in the "C" Series of the Official Journal of the European Union

Review Process

- All restrictive measures in force are kept under constant review to ensure that they continue to contribute towards achieving their stated objective

Request for Lifting

- Listed persons and entities may submit a request to the Council, together with supporting documentation, requesting that the decision to list them be reconsidered.
- The request should be sent to the Council of the European Union.

What is the sanctions process of the United States?

Executive Order (EO)

- Sanctions policy may originate in either the executive or legislative branches.
- Presidents typically launch the process by issuing an executive order (EO) that declares a national emergency in response to an "unusual and extraordinary" foreign threat, such as "the proliferation of nuclear, biological, and chemical weapons" (EO 12938) or "the actions and policies of the Government of the Russian Federation with respect to Ukraine" (EO 13661).
- This affords the president special powers to regulate commerce with regard to that threat for a period of one year, unless extended by him/her or terminated by a joint resolution of Congress.

Role of Congress

- Congress may pass legislation imposing new sanctions or modifying existing ones, which it has done in many cases.
- There are multiple legal authorities, as with Cuba and Iran, congressional and executive action may be required to alter or lift the restrictions.

Role of Treasury Department

- The twenty-six existing U.S sanctions program are administered by the Treasury Department's Office of Foreign Assets Control (OFAC), while other departments, including State, Commerce, Homeland Security, and Justice, may also play an integral role.

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