

Why the European Union should change its Common Policy towards Burma

The reality of European foreign policies is that much of its policies depend on the weight and importance of the countries it deals with. There are common values that need to be exported, like the respect of human rights, through European foreign policies. However, much of these policies have had to adapt to new and rising powers in different parts of the world. This paper aims at establishing that the Association of South East Asian Nations (here after ASEAN) is becoming an important geo-political power that the European Union (here after the EU) can no longer take lightly.

Burma (officially known as Myanmar), a small military state of roughly 53.4 million inhabitants, has never really been of great importance to the rest of the world, except to its neighbours, China and India. It is a state that has had access to the world media networks through pro-democracy crackdowns and human rights violation, as well as Aung San Suu Kyi's long-term house arrest, before her recent release.

This underestimated state, has been one of strategic interest to both China and India, and became more so with Burma's accession into ASEAN. Now it may no longer be just a small state of little interest, but rather a state that could shape the EU's future role in Asia, by remaining a constant obstacle to better relations. As part of the ASEAN bloc, Burma has managed to be the reason for the standstill in the EU-ASEAN Free Trade Agreement (FTA) negotiations and other negotiation failures.

Much of the EU's longstanding relationship with the United States may be determined by its role in Asia. The EU can no longer go through India or China, who are aiming to rival the EU, and may only be left with ASEAN as a possible means of integrating Asia's global advancements. Among other reasons, these must lead the EU to over look Burma's flaws and put aside its Common Policies and manage a greater role in the Asian region, politically and economically.

**An emerging ASEAN: growing global importance and why the EU can longer ignore it.**

"Two-thirds of the world's economic growth is being supported by the economies of ASEAN member countries and this only shows the importance of ASEAN and East Asia in the global context"¹ - *Indonesian Trade Minister Mari Elka Pangestu*

ASEAN is recognised as an important market bloc and emerging geo-political power. It lies strategically between India and its subcontinent, the Indian Ocean, and South-western China. It is the third largest economy in Asia, after China and Japan, and has had a GDP growth of 170% over the past decade². Overall, ASEAN accounts for 6% of all world trade. As an emerging market, ASEAN has attracted the attention of several other markets, notably the Chinese, Indian and Japanese markets. Since 2004, five Free Trade Agreements have been negotiated with China, South Korea, Japan, India, Australia and New Zealand.

ACFTA: The ASEAN China Free Trade Agreement Trade in Goods was signed in 2004 and implemented in 1 July 2005 by the ASEAN countries and 20 July 2005 by China. The ACFTA is a market made up of 1.91 billion consumers, making it the largest FTA. China is ASEAN's largest trade partner, accounting for 12,1% of total trade (approximately 129.2 billion Euro as of 2009)³.

AJCEP: The ASEAN Japanese Comprehensive Economic Partnership Agreement was signed on 14 April 2008. As of 01 June 2009, 8 countries (Japan, Singapore, Malaysia, Brunei, Viet Nam, Laos, Myanmar and Thailand) have implemented the AJCEP Agreement. Japan is ASEAN's third largest trade partner, after China and the EU, accounting for 115.3 billion Euro and 10,8% of total trade, as off 2009⁴

AIFTA: The ASEAN India Free Trade Agreement Trade in Goods (TIG) Agreement was signed the 13 August 2009. As of 1 October 2010, Brunei, Indonesia, India, Malaysia,

¹ Source: Embassy of the Republic of Indonesia, Washington DC

² Source: IMF World Economic Outlook Database – Annex 1

³ Annex 2 - DG Trade 17 March 2011

⁴ Annex 2- DG Trade 17 March 2011



Singapore, Thailand and Vietnam have implemented the Agreement. As of 2009 India has been ASEAN's 12th largest partner with a total trade of 25.9 billion Euro⁵.

AANZFTA: The ASEAN Australia New Zealand Free Trade Agreement came into force 1 January 2010, for eight of the twelve countries that signed the Agreement: Australia, New Zealand, Brunei, Burma, Malaysia, the Philippines, Singapore and Vietnam. Thailand, Laos and Cambodia joined late 2010 after having fulfilled internal requirements. AANZFTA's trade was valued at AUS\$97 billion in 2009⁶.

AKFTA: The ASEAN Korea Free Trade Agreement negotiations began in 2005 and the Trade in Goods chapter of the AKFTA entered into force in June 2007. As of 2009, trade between ASEAN and Korea amounted to roughly 53.8 billion Euro or 5,1% of ASEAN's total trade

The EU has been in negotiations with ASEAN since 2002 for the creation of a EU-ASEAN FTA, however negotiations have remained at that very stage for several reasons, which will be elaborated later in this paper. Despite the inexistence of a bloc-to-bloc free trade agreement, the EU has had an increasing interest in the ASEAN market. The EU's interest has led to bilateral negotiations between the EU and individual ASEAN states, after failed FTA negotiations. In 2006 the European Commission's Communication *Global Europe: Competing in the World (2006)*⁷ recognised ASEAN a priority market due to its significant growth potential. In terms of market potential the ASEAN member states makes up a total population 592 million people, together with the EU27, the market potential expands to 1.1 billion people.

The importance of these relations is amply demonstrated by the trade and financial relations between the EU and ASEAN. According to DG Trade Data⁸ the EU is currently ASEAN's

⁵ Annex 2- DG Trade 17 March 2011

⁶ Source: Australian Government, Department of Foreign Affairs and Trade.

⁷ Commission of the European Communities, *Global Europe: Competing in the World*. (A Contribution to the EU's Growth and Jobs Strategy), Communication, Brussels 4.10.2006

⁸ Annex 2- DG Trade 17 March 2011



second largest trading partner, accounting for about 11,6% of total imports (2009)⁹. Furthermore, EU companies have invested nearly 9.1 billion euro annually since 2000¹⁰

Along with economic interest in ASEAN, the EU also sees itself as a model for ASEAN integration. As the second most advanced region in regional integration, ASEAN has seen an increase in unique partnerships with the EU, through numerous projects like the ASEAN Programme for Regional Integration Support, Phase II (APRIS II) and the ASEAN Economic Integration Support Programme (AEISP), which aimed at facilitating intra-regional trade and preparing ASEAN for its 2015 creation of a single market.

APRIS II was the EU's assistance project in support of the realization of the ASEAN Economic Community (AEC) and focused on standards, customs and trade facilitation. The project had a 7.2 million euro budget and ran from 2006 to 2010. In early 2011, the EU agreed to provide a 15 million euro grant to ASEAN to ensure the continuation of ASEAN integration related to the building of the single market.

While ASEAN's thriving economy has established trade relations with numerous countries, the EU knows it cannot stay behind and must take every opportunity possible to gain access to a potential market bridge that could lead them indirectly to the entire Asian continent. The EU's commitment to be present in ASEAN despite FTA failures and its wide contribution to the establishment of an ASEAN single market and ASEAN development, exemplifies ASEAN's growing importance on the global scene that can no longer be disregarded by the world's leading economies.

An obstacle for both sides: Burma

In September 2001, the European Commission, in its communication *'Europe and Asia: A Strategic Framework for Enhanced Partnerships'*, identified ASEAN as a key partner for the EC both economically and politically, and emphasised the importance of ASEAN as a driver for Euro-Asian relations. However, since the mid 90's, the EU-ASEAN relations have faced

⁹ Annex 2 - DG Trade 17 March 2011

¹⁰ Source: European Commission. Trade: bilateral relations, ASEAN

several complications, which have hindered all dialogues. Before its adherence into ASEAN, Burma had been condemned, by international critics and governments, for its human rights violations and lack of democratic rule. Burma has since become an impediment to ASEAN-EU relations.

During the mid 1980's, Burma began attracting strong international criticism in response to the deterioration of the human rights situation and the repressive measures against the Burmese democratic opposition. With growing outrage of the situation in Burma with the massive repression and its unwillingness to have recognized the results of the May 1990 elections, won by the National League for Democracy¹¹, the EU began building a wider range of legal arsenal against the regime rather than simple and ineffective diplomatic condemnation. In response to the situation in Burma the European Council agreed on a Common Position on Burma/Myanmar¹² in 1996, which imposed its first embargo on export of goods that could be used for repression (arms embargo). Then again in 1998¹³ the European Council agreed on a Common Position, which applied visa bans to senior junta officials and froze funds held abroad by those officials.

In 1997, when Burma officially joined ASEAN, the EU began “boycotting” the former's accession and led to a long round of diplomatic EU-ASEAN friction. The EU refused to allow Burma to participate in the 1980 EU-ASEAN cooperation agreement¹⁴ and EU-ASEAN ministerial meetings¹⁵ were suspended for several years. Yet, in contrast to the EU's reaction, most ASEAN states saw their role in Burmese politics as inexistent. They took the stance that any abuse of human rights and political instability in Burma was strictly an internal matter and had to refrain from intervening. Furthermore, denying entry to Burma would have gone against the 1967 Bangkok Declaration¹⁶.

¹¹ The National League for Democracy (NLD), headed by Aung San Suu Kyi, had won the parliamentary elections on the 27th of May 1990.

¹² Council of the EU Common Position 1996/635/CFSP

¹³ Council of the EU Common Position 1996/612/CFSP

¹⁴ Under the Agreement, objectives for commercial, economic and technical cooperation were established and a Joint Cooperation Committee (JCC) was formed as a mechanism to monitor ASEAN-EEC cooperation.

¹⁵ ASEAN-EU Ministerial Meeting, AEMM, is the highest institutional level between both blocs.

¹⁶ The 1967 Bangkok Declaration allowed the participation to all nation-states in the region.

During the September 2005 EU- ASEAN meeting of trade ministers in Rotterdam ASEAN states began “boycotting” the meeting in response to the Burmese delegation being subject to a EU wide visa ban. Then in 2006, pressure came from all sides when Burma was to take its chairmanship of ASEAN. It was finally stripped of its chairmanship when the military junta agreed to pass on its turn. European diplomats publicly expressed their satisfaction¹⁷.

In 2006, the EU Commission defined in its paper, *Global Europe: Competing in the World*¹⁸, the guidelines for the new market-opening commercial strategy that the EU would follow at a multilateral and bilateral level. The EU’s 2006 paper also defines the criteria for the choice of FTA partners: Market potential (economic size and growth), level of protection against EU exporters (tariff and non-tariff barriers), and potential partners’ negotiations with EU competitors. Based on these criteria, ASEAN was identified as a preferred partner. At the 7th Meeting of the Joint Committee¹⁹, in March 2009, ASEAN and the EU temporarily paused all negotiations. On one hand, there were doubts, by the EU, about the choice of negotiating for a regional agreement instead of seven bilateral agreements. Furthermore, indirectly negotiating a free trade agreement with a country it had been sanctioning could cause damage to the image of their common stance on human rights it had worked so hard to achieve with Burma. The European Trade Commissioner, Karel de Gucht, has said that the political obstacle posed by the disagreements with ASEAN member states on excluding Burma from the benefits of such an FTA was a major cause for the EU Commission’s decision to abandon negotiations²⁰. On the other hand, ASEAN felt that the mandate received by the EU Commission to negotiate with just seven of the ASEAN states, and leaving out Cambodia, Laos and Burma, was unacceptable. This was mainly because the mandate allowed for Cambodia and Laos to join the agreement in the future, but not Burma.

Ultimately, Burma was not just an obstacle for the EU but for ASEAN itself. In the late 1990’s, the normative shield that Burma benefitted from became unavailable as ASEAN policies began shifting from a strict view of non-interference to soft-diplomacy policy, in which ASEAN states could use “friendly advice” to persuade neighbours. In November 2004,

¹⁷ *Ruling Myanmar* ; Nick Cheesman, Monique Skidmore & Trevor Wilson p. 271

¹⁸ Commission of the European Communities, *Global Europe: Competing in the World*. (A Contribution to the EU’s Growth and Jobs Strategy), Communication, Brussels 4.10.2006

¹⁹ In 2007 a joint committee (JC) is established to work on the modalities, timeframe and programme for FTA negotiations. The JC is compromised of senior officials.

the establishment of an ASEAN Inter-Parliamentary Caucus (AIPMC) by the ASEAN governments was aimed at adding further pressure on Burma. Moreover, ASEAN states have come to see Burma's stubbornness as a threat to ASEAN's collective interests, illustrated by an ASEAN statement dating from the 18 May 2009 containing warnings that if Burma failed to demonstrate responsibility in protecting the rights of citizens, ASEAN's credibility would be jeopardised and its integration process obstructed²¹.

The EU Common Position

The EU Common Position 1996/635/CFSP was the first to be adopted by the geopolitical bloc in regards to Burma on the 28 October 1996. Much of the groundwork was laid down by the first 1990 arms embargo. As the Burmese government moved further away from democracy, the EU chose to reinforce the sanctions and the common position adopted in 1996; the EU removed Generalized System of Preferences²² (GSP) privileges for Burmese agricultural and industrial products, in response to forced labour abuses. In 2001, the EU excluded Burma from the Everything but Arms (EBA) scheme, which was incorporated in the GSP - Council Regulation (EC) No 2501/2001.

Today's EU Common Position is structured around three distinct elements: military, economic and political. The military structure of the Common Policy includes total ban on defence cooperation with Burma; excluding Burmese military personnel from any EU member states and vice versa. The economic structure of the EU Common Policy proposes the suspension of investment, partnerships, restriction on imports of Burmese products and involvement in development or non-humanitarian programs²³. The EU has also frozen financial assets of Burmese leaders, anywhere within the EU. The political structure involves a wide number of political constraints. As mentioned before, visa bans have been imposed on

²⁰ Source: Ruling Myanmar – From Cyclone Nargis to National Elections p. 274

²¹ Source: EU-ASEAN Relations: The Importance of Values, Norms and Culture – EU Centre, Singapore Working Paper no.1, June 2010

²² GSP: trade arrangement through which the EU provides preferential access to the EU market to 176 developing countries and territories, in the form of reduced tariffs for their goods when entering the EU market

²³ Ruling Myanmar – From Cyclone Nargis to National Elections p. 273 -David Camroux and Renaud Egretteau pointed out that humanitarian aid caused some confusion with member states as to what extent is cooperation with foreign authorities acceptable?

Burmese high officials, the representation of the Burmese state have been severely narrowed if not blocked altogether.

1. A EU position change
 - a. Ineffectiveness of current sanctions

Essentially, EU sanctions on Burma have been more symbolic than anything else. Much like those imposed on China for example. This has been a tendency of the EU to pursue normative goals rather than strategic goals. Maintaining strong ethical views by EU political leaders far outweighed any economic costs, as ventures in Burma remain fairly low, nothing compared to the stakes in China or India for example. The direct effect on trade has only been on trade with the EU itself, to minimal effect, as the sanctions have only pushed Burma to further open its market to alternative trade partners such as Australia, China, India, Thailand and the rest of Asia. Ultimately these sanctions are only pushing back the EU's role in ASEAN and Asia. This is also re-enforced on the ASEAN level, as we've seen with the suspended ASEAN-EU FTA talks as a result of the sanctions imposed on Burma due to its non-compliance with democratic values upheld by the EU.

Since 1962, the Burmese government has been self-sufficient and independent of external economic presence²⁴. The economy was large enough for the military to extract the resources needed to barely maintain its economy alive. The sanctions confirmed the suspicion of strongly nationalist leaders that the West aimed to dominate and exploit the country, and strengthen their resolve to resist. Thus with further resistance and the possibility for Burma to survive without EU trade assistance, the sanctions have remained a failure and nothing more than a symbolic gesture by the EU.

Despite Burma's self-sufficiency, it has never had to look very far for trade and assistance. Strategically located between south-western China and India's rebel filled north-eastern region,

Regardless of Burma's unimportance to the West, China and India have fought hard to gain access to this market for several reasons. Burma is strategically located, being an access point

²⁴ Asian Survey, Vol. 39, No. 5 (Sep. - Oct., 1999), pp. 772-791



to both Chinese and Indian market. China has since the 1980s recognised It is a market that is already important for both of its neighbours.

An impeding EU Foreign Policy

The EU's desire to respect human rights and the principles of democracy has spread to nearly all corners of the world. However exported and publicised, it has not had the desired effects. As a means of pressure to support principles of democracy and human rights, the EU turned to diplomatic and economic sanctions. Burma's pro-democracy demonstration crackdowns, the 2007's Buddhist monks' repression and Burma's failure to recognise elections results, have all led to sanctions having excluding effects from all EU-Asian/ASEAN relations. Much like Burma, China has been widely criticized for its human rights violations, notably with the 1989 Tiananmen Square Massacre and the Tibetan monk riots of 2008. Yet, the EU seems to have favoured its more important Asian "counterpart" and has acted in the best interest of both parties. This only amounts to a discrepancy in European external affairs, showing favouritism. However hypocritical this is, it is but the reality of all foreign relations.

Certain revelations have taken place in the eyes of some EU civil servants, notably with Catherine Ashton, EU High Representative for Foreign Affairs. In a strategy paper she presented in December 2010, she recommended a review of EU Foreign Policy, notably towards China in order to boost EU relations with Beijing. Most notably, this included a lifting of the arms embargo against China, which has been in place since the events of Tiananmen in 1989. The arms embargo imposed on China was far from the EU putting its foot down. It was not legally binding and like most EU directives, it was applied differently by each Member State. But ultimately, the arms embargo has not stopped the sale of arms to China. Below is a table with the total sales of arms to China by all EU Member States.

EU Member State arms sales to China²⁵

²⁵ www.parliament.uk - Stars and Dragons: The EU and China - European Union Committee; CHAPTER 5: CHINA AND INTERNATIONAL RESPONSIBILITY: SECURITY

Total value of sales
2005 : €113.2 million
2006 : €133.9 million
2007 : €91.6 million

This arms embargo has been a constant source of friction in EU-China relations. Although treated like Sudan or Zimbabwe, China has had some sort of favouritism treatment by the EU. Essentially, it is European arms companies who lose out to a large market as Mr Song Zhe, Chinese ambassador to the EU, points out. China has the capacity to develop arms at a cheaper and faster rate²⁶.

Baroness Ashton argues that the EU has too much at stake to allow it to lose a grip on Asia. The United States has recognised the need for more engagement with Asia, and the EU runs a risk of seeing itself fade away as a relevant US partner given its relative strategic weakness there. Europe is no longer the main strategic preoccupation of US foreign policy. Ashton understood that “China will not match EU standards of human rights and rule of law for some time to come. Future convergence is best sought by concentrating on common ground... We need to manage mutual expectations”. Its main priorities are economic growth, internal stability, and territorial integrity, which the EU can do little to change or affect. Ultimately, the EU could see the US turning its attention elsewhere, should the EU over-promise and under-deliver.

Ultimately, the EU has understood the need to keep up with China. The Chinese government, who already hold nearly \$900 billion in US bonds, has been in a position to negotiate with every other country in the world and can no longer be taken lightly, most notably due to its economic and geo-political importance.

Conversely, the same sort of logic could be applied to ASEAN. With its growing importance in geo-politics and world trade, the EU has every reason to be present in the ASEAN region.

²⁶ EUobserver.com ; Ashton Pragmatic on China in EU Foreign Policy blueprint – Andrew Rettman



Firstly, it is another way for the EU to remain relevant as a partner to the US and secondly it is a way for the EU to re-enforce its relations with Beijing, by acting in a region where the latter has a strong presence. Putting such importance on ASEAN would thus mean a re-thinking of EU foreign policy in Burma in order to allow for stronger and more efficient EU-ASEAN relations. The current EU sanctions on Burma have already pushed the latter to find alternative trade partners and essentially nullified EU strategies in Southeast Asia. These sanctions have only truly affected the EU and its opportunities to find a grip in Asia