THE EUROPEAN UNION’S SANCTIONS RELATED TO HUMAN RIGHTS:
THE CASE OF BURMA/MYANMAR.

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This dissertation is dedicated to a Shan woman, gang-raped and beaten by Burmese troops in front of her husband, when she was 16 and 7 months pregnant. She never saw again her husband, forcefully taken by the troops for to be a porter. He must have died. The young women has now cross the border to Thailand, and her baby, born few days after she was attacked, is gravely ill. Her aggressors have not been punished. Her story is one of 625 rapes committed between 1996 and 2001 in the Shan state, is related in the following report under the case n°160.


http://www.shanland.org/shrf/License_to_Rape/license_to_rape.htm
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FOREWORD.

Most papers related to the Burma/Myanmar’s issue start with a justification for the use of certain names. Indeed, the complexity of Burma/Myanmar’s political history, especially in the light of the country’s ethnic composition, confuses the author in the use of some terms. The territory of the former British colony of Burma, changes his name to the Union of Burma after independence (1948). In 1974, when the military switch to a new constitution, the country became the Socialist Republic of the Union of Burma. Finally, in 1989, after the bloody repression of the summer 1988’s democratic demonstrations, the State Law and Order Restoration Council (SLORC) came to power and renamed the country the Union of Myanmar.

However, the term Myanmar bears an ethnic dimension, which offends ethnic minority groups. This term actually refers to the Burman “own sense of collective identity”, whereas the SLORC justified the change as reflecting the cultural plurality of the peoples of Burma/Myanmar. According to Bruce Matthews, as in Ceylon when the name Sri Lanka was introduced, the names changes “exacerbated what was already a serious matter of ethnic minorities finding no comfort in a modern nation state largely defined by the cultural and political priorities of an overbearing majority.”

Therefore, this paper uses the term Burma for the pre-1989 period, and as the European Union, the expression Burma/Myanmar to refer to the post-1989 period. Along these lines, the names referring to the ethnic minority groups correspond to the pre-1989 nomenclature, as they are used and accepted throughout the population. The term Burmese will define the all population of Burma/Myanmar, and Burman will refers to the ethnic majority group.

The use of these terms do not reflect any bias against the country’s government, but merely a means to preserve the impartiality of this document, accordingly to the polemic brought by such an issue.

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1 Derived from myan, which means “quick” and mar, “hardy”. The actual full name is Myanmar Naing Ngan. MATTHEW Bruce, 2001, p.1.
2 Ibid., p.2.
INTRODUCTION

Article 11 of the Treaty on the European Union establishes that the EU Common Foreign and Security Policy should seek to “develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms”.

Accordingly, the European Commission has pledged to undertake a more “pro-active approach” of human rights issue and to pay a special attention to the coherence between the European Union policies and the imperatives of human rights’ spread in third countries.

The situation of human rights in Burma/Myanmar provides a practical case to assess the “pro-active” character and the “coherency” of the European Union human rights policy.

Burma/Myanmar is a 50 million people South East Asian country, ruled by an army of half a million soldiers. Former colony of the United Kingdom, Burma/Myanmar has only experienced democracy for few years, between 1948 and 1962. Since 1962, Burmese political records are indeed one of the worst in the world, as the armed forced built their power on repression, arbitrary detentions and executions, torture, rape, forced labour, use of child soldiers, use of civilians as porters and mines sweepers, on a widespread basis. As Mr Zawmin from the Euro-Burma office stated it, in Burma/Myanmar no place is safe.

As a result, Burma/Myanmar accounts for a million of internally displaced people and more than a million refugees in neighbouring countries. Those are mainly people issued from ethnic minority groups, who flee the “Burmanisation” program of the junta. Such program, besides violating ethnic minorities’ political, social and economic rights, has turned into a widespread ethnic cleansing perpetrated by the Tatmadaw, the armed forces,

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3 There are indeed 400 000 soldiers, excluding the paramilitary forces. The later, the police (72 000 people), the fire brigade, and the Myanmar Red Cross, march with the military in the annual Armed Forces Day parade, and account for another 100 000 people. International Crisis Group, Asia Briefing, 2002 p.3.
mainly composed of Burmans. The growing number of refugees, added to the spread of HIV/AIDS virus, menaces the entire region.

Economic and social mismanagement led to an acute humanitarian crisis and the spoiling of the country abundant natural resources, bargained to foreign firms by the government to compensate the critical lack of foreign reserves. To finance its huge spending in defence and security goods, the military regime had been keen to cooperate with opium warlords. Burma/Myanmar is the second “exporter” of illicit drugs, after Afghanistan.

All these issue attest the international character of the Burma/Myanmar case. Departing from the practical case of European Union’ sanction on Burma/Myanmar, this report will focus on the consistency and coherency of the European Union actions, relatively to its own aspirations, the gravity of the Burmese situation and the other international actors’ positions.

Therefore, we will first briefly review the main objectives of the European Union’s human right policy and the instruments available for their implementation.

Then, we will go through the political history of Burma/Myanmar, from the colonial period to nowadays, which provides the necessary background to understand of the Burmese issue’s severity.

The two following chapters will examine the positions undertaken by the European Union and other international actors on Burma/Myanmar.

Finally, the last section will present the assessment of the European Union policies toward Burma/Myanmar, in the light of available theoretical support.

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4 If the first aim of this paper is not to testify on the violations committed in this country, we invite readers to keep themselves inform on the Burmese situation’s evolution.
1. **EUROPEAN UNION’S FOREIGN POLICY, HUMAN RIGHTS AND ECONOMICS.**

1.1. **EUROPEAN UNION’S PROMOTION OF HUMAN RIGHTS.**

According to the 2001 European Union Report on Human Rights, the European Union is committed to human rights, both inside the union’s frontiers and in its relations with third countries. “The European Union seeks to uphold the universality, interdependence and indivisibility of all human rights – civil and political as well as economic, social and cultural. The Union is committed to intensifying the process of "mainstreaming" human rights and democratisation objectives into all aspects of EU external and internal policies. It therefore continues to promote the growing international trend towards integrating the promotion of human rights, democracy and the rule of law into development cooperation, trade policies and the promotion of peace and security.”

Along these lines, the Amsterdam Treaty attributes human rights a core role in the European Union Common Foreign and Security Policy. Indeed, Article 11 of the Treaty on the European Union places, among the objectives of the EU Common Foreign and Security Policy, efforts to “develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms”. This policy is pursued through cooperation, partnership and dialogue in bilateral contacts with third countries, and within the United Nations and other international organisations.

In 2001, replying to the critics of the European Parliament and several human rights-related nongovernmental organisations, the European Commission released the *Communication on the European Union’s role in the promotion of Human Rights in third countries*. In this document, the European Commission engaged itself to promote “coherent and consistent policies in support of human rights and democratisation”, and to take “a more pro-active approach, in particular by using the opportunities offered by political dialogue, trade and external assistance”.

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Consequently, the European Union decided to include, systematically, human rights and
democratisation issues into its political dialogue with third countries and its assistance
programmes.

Nevertheless, as far as the Burma/Myanmar case is concerned, the coherence the
Commission agued for, especially between its different policies and the Common Foreign
and Security Policy, seems far to be achieved. In its report on human rights, the European
Council expresses its particular attention on political freedom, arbitrary detention and
execution, torture, rights of the women, rights of the child, and respect of the political,
social and economic rights of the people especially of the minorities.
The Burmese case includes all the European Council’s concerns, but this report will
demonstrate that the approach of the European Union is not as “pro-active” as the later
intends to show when it claims: “The EU champions the promotion and consolidation of
democracy”.

1.2. Legal base of sanctions in the European Union’s foreign policy.

As indicated by Articles 13, 14 and 15 of the Treaty on European Union, the main
legal instruments of the EU Common Foreign and Security Policy are common strategies,
common positions and joint actions.

In the case of Burma/Myanmar, the EU did not adopt any common strategies aimed “to
set objectives and increase effectiveness of EU actions through enhancing the overall
coherence of the Union’s policy (...) in areas where the Member States have important
interests in common”. Likewise, no joint actions where required, as the European Union
refuse to operate in Burma/Myanmar on a bilateral base.

However, the European Union adopted several common positions on Burma/Myanmar,

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6 An evident example of the European Union’s new attitude is the Cotonou agreement, between the
European Union and the African, Caribbean and Pacific countries, which bears a democratic clause, which
emphasises on good governance and human rights and thereby, links trade with core labour standard.
The role of common positions is to “define the approach of the Union to a particular matter of general interest of a geographical or thematic nature”\textsuperscript{9}, which implies that member states will bring their national policies in conformity with the decisions adopted. In addition, the European Union undertook several Démarches on human rights to the Burmese military regime. In other words, the European Union sent representatives’ delegations, sometimes in a confidential or informal manner, to Burma/Myanmar.

The European Union also made public declarations to welcome positive developments, like in May 2002 when the junta released Aung San Suu Kyi, or call on the junta to comply with internationally recognized human rights’ standards, like recently, when she was arrested again in May 2003.

Another tool available is “the Community's own instrument in the “social incentive arrangements” of the Generalised System of Preferences [which] provides for additional preferences to be extended to countries effectively applying certain International Labour Organisation (ILO) standards”\textsuperscript{10}. In December 2001, the Council adopted a revised Generalised System of Preferences’ scheme, which enables the European Union to suspend the accessibility to these privileges to “countries that seriously and systematically violate any standards referred to in the ILO Declaration on Fundamental Principles and Rights at Work, as [it] was the case for Burma/Myanmar”\textsuperscript{11}.

In addition, in July 2001, the Commission released a Green Paper “Promoting a European Framework for Corporate Social Responsibility”, in which it underlined “the strong human rights dimension of Corporate Social Responsibility, particularly in relation to international operations and global supply chains”\textsuperscript{12}. The Commission stressed that European firms should adopt codes of conduct, addressing working conditions, human rights and environmental issues, which would cover their subcontractors and suppliers. They should be based on the ILO fundamental conventions and the Organisation for Economic Cooperation and Development (OECD) guidelines for multinational enterprises, and involve the local social partners.

\textsuperscript{9} Ibid., p. 40.
\textsuperscript{10} Ibid., p. 33.
\textsuperscript{11} Ibid., p. 34
\textsuperscript{12} Ibid., p.39.
Of course, the opinion addressed in this Green Paper does not constitute binding obligations for European companies. In fact, the Treaty on the European Union limits the possibility of autonomous actions at the community level. The European Commission, in charge of the executive, does not have access to so many tools, and is highly dependant on members States good will as it cannot unilaterally initiate the measures that it thought to be right. Furthermore, despite the good will pretended by the European Union, human rights issues are not the predominant interest of EU policies, as an economic gains-oriented rationality prevails.
2. **BURMA/MYANMAR’S POLITICAL HISTORY.**

2.1. **ETHNIC COMPOSITION OF BURMA/MYANMAR.**

The ethnic diversity of Burma/Myanmar is an explosive issue and the ground of most problems encountered by the country.

The Burman majority accounts for 65% of a 50 millions population[^13]. The remaining inhabitants are divided in seven major ethnic groups who occupy half of the territory. Those ethnic groups are the Chin, the Kachin, the Karen (now Kayin), the Karenni (now Kayah), the Mon, the Arakanese (now Rakhine) and the Shan.

The military junta distinguishes 135 sub-ethnic groups among the eight major ones (cf. Appendix 2)[^14]. However, most people are not aware of such classification, and one can suspect the government to use this nomenclature for discriminative purposes.

In the eleventh century, the Burman had conquered most of the actual territory. However, prior to the arrival of the British, Burman kings were often overthrown by the Mon, the Arakanese, and the Shan. Moreover, many communities living in remote places were rarely brought under central domination. Thus, “groups (...) remained relatively distinct from each other in such matters as language, culture, patterns of production, and political traditions”[^15].

When the British took over the country in the 19th century, they divided the country in two main areas: Ministerial Burma mainly populated by the Burman majority, and the Frontier area. Ministerial Burma was separated in seven divisions: Irrawaddy, Magwe, Mandalay, Pegu, Rangoon, Sagaing, and Tenasserim. Frontier Burma was divided in seven states (Arakan, Chin, Mon, Kachin, Karen, Kayah, and Shan) representing more or less the ethnic minority group’s territorial repartition, as their name suggest it (cf. Appendix 1).

As we will see, territorial repartition of ethnic groups echoed an ethnically-based social division of labour. This is true for indigenous peoples but also for Chinese and Indians

[^14]: Myanmar information committee, Political Situation of Myanmar And Its Role in the Region, [http://www.myanmar-information.net/political/english.pdf](http://www.myanmar-information.net/political/english.pdf)
immigrants appointed to trade-related and administrative occupations in Ministerial Burma. Such colonial practices generated a strong resentment among Burman people, against the British, the foreigners, but also against the other indigenous ethnic minorities more favoured than they did.

The cleavage between ethnic groups was reinforced with the arrival of the Japanese during World War II, as some peoples remained faithful to the British, while the nationalists, particularly the Burman, joined the Japanese. According to an ICG report, exactions committed on the Karen communities during the Japanese campaign “left deep-seated enmity”\textsuperscript{16}.

Nowadays, the ethnic issue is more than ever a critical one as the policies and practices of the dominant Burman armed considerably the basic rights of the non-Burman inhabitants. Furthermore, the discrimination on racial ground is reinforced by religious consideration as Christians, Hindus and above all Muslims communities are often the target of many human rights’ abuses. Christianity is often associated with the Chin, Kachin and Karen, Hinduism with Indians, and Islam, accounting for about 13% of the population, is mainly represented in Arakanese, Indian and Pakistanis communities. Ethnic minority groups are not excluded in cities populated by Burmans, but they faced severe discriminations. Indeed, the junta carries out a program of “Burmanisation”, which denies social, cultural and religious rights of ethnic minority people and hence, marginalises them. They cannot access certain jobs, mainly in administration and in the army. Those living in remote zones are subjected to atrocities committed by unleashed military group. The junta propaganda portrayed ethnic minorities as troublemakers, and ordinary Burmans, besides the Tatmadaw (armed forces), progressively share this view.

\textsuperscript{16} Ibid.
2.2. **Colonial past.**

Defeated in 1826\(^{17}\), by the British, Burma remained under the British crown until 1942. However, the country did not gain independence from Great Britain before 1948. During this intermediate period, Burma was occupied by Japan, in the course of World War II.

The British occupation did provide certain stability to the country’s political history as it unified the diverse indigenous ethnic groups under the colonial rule. However, the colonial system armed considerably the Burmese social structure.

The precolonial social organisation largely rest on the authority of local chieftains and Buddhists monks. This common faith shared among the Burman majority, the Arakanese and most Shan and Karen people, was the main source of social stability as Buddhism emphasises on self-reliance and righteous behaviour. Moreover, monks offered education to all and “even the meanest peasant learned to read and memorize the teaching of the faith”\(^{18}\).

However, the British wanted to establish law and order through a costless central administration and secure their economic interest by the rationalisation and the commercialisation of agriculture. Authority was thus territorialized as the personal authority of village headmen was replaced by the weak influence of “salaried officials responsible to the local government rather than to the local community”\(^{19}\).

In addition, the end of the monarchy removed the authoritative council in charge of the monks. Thus, the order’s discipline weakens and monks were soon deprived of their main social function. At the same time, English commercial schools flourished.

Whereas, in Burma, precolonial social structure accounted for “*a certain degree of autonomy and class mobility*”\(^{20}\), the British secured their power by a patriarchical and racialized treatment of indigenous social groups. Throughout their possession in South

\(^{17}\) In fact, actual Burma/Myanmar was fully annexed by the British in 1886, further to a third defeat of the Burmese army and the capturing of the Burman King. Silverstein Josef, “Burma”, in KAHIN Georges McTurnan, 1965, p.76.


\(^{19}\) Ibid., p.80.

\(^{20}\) Ibid.
East Asia, in Burma as in Indonesia or Sri Lanka, they discriminated between indigenous ethnic communities, but also among immigrant groups, According to Sheila Nair, “British social policy challenged the fluidity of ethnic identity and politics in the precolonial state, and instead solidified “racial”, “tribal”, and “ethnic” differences among socio-economic lines.”

Indeed, in order to protect the interests of the minorities, the British attributed them some key functions of which the Burmans, the dominant ethnic group, were deprived. For example, the British mainly recruited Karens, Kachins and Chins in the colonial army and administration, whereas the Burman were kept out of such activities. Josef Silverstein underlines that minority groups living on the frontiers were administered directly by the central British administration, separately from the rest of the country, and those living in Ministerial Burma were granted seats in the legislature.

More important, the British divided ethnic group “along occupations lines” ; indigenous peoples worked on the land in the Frontier area, and Indians and Chinese immigrants dealt with urban activities in Ministerial Burma, largely populated by Burmans. This division was seriously challenge by the spillover effects of others British policy. For instance, in order to take Burma to commercial agriculture, the British displace indigenous and aliens peasants to the South in the fertile delta’s region. Deprived of their traditional social structure, those newly established cultivators fully adopted the imported rule of law, tenancy rights and money lending practices. With the nationwide implementation of these principles “(...) land alienation became commonplace” and “a landlord class which dealt in land speculation rather than in cultivation” rapidly emerged. Burma soon became “the world’s largest rice exporter”, but the consequent exodus of landless farmers to town led, in the 1930s, to sour competition between ethnic groups and violent communal riots.

22 SILVERSTEIN Josef, “Burma”, in KAHIN McTurnan George, 1965, p.82-83.
23 Ibid., p.83.
24 Ibid., 1965, p.81.
25 Ibid.
26 Ibid., p.79.
Therefore, according to Josef Silverstein, British policies “made the people conscious of their ethnic and cultural differences and kept the society divided”\(^27\).

The Japanese occupation, during the Pacific war, allowed the appearance of two crucial phenomena. Throughout their four years of control over Burma, the Japanese did not succeed in bringing the indigenous population into their rule nor do they manage to lessen the external menace of the Allied forces. Hence, they attempted to secure their position internally by promising independence to Burma and externally by supporting indigenous army. In this context, the heroic character of Aung San emerged. Chief of this Burmese army, he became the head of the Anti-Fascist People’s Freedom League (AFPFL) once the Japanese allowed Burma to proclaim its nominal independence on August 1, 1943. The AFPFL was first a resistance movement founded on Buddhist philosophy and opened to all Burmese regardless their ethnic group, their political or religious beliefs. It turns out to be a leading political party of Burma calling for national unity and federalism.

Under this transitional period to democracy, a Burmese government in charge of most administrative matters was created. In the words of Josef Silverstein, the operations of this government, “provided a valuable experience to the people and gave them, confidence in their ability to govern themselves”\(^28\).

However, when the Allies finally won the war in August 1945, the Burmese feared a regression to the British colonial economic order. Strikes and negotiations led in January 1947 to the London meeting, where it was decided that a constituent assembly was to be elected in April, and that the peoples of the Frontiers Areas would have to decide whether to join or not ministerial Burma. The later met at Panglong on the 12th February 1947. The consequent agreement warranted the representation of the Frontier area in the government’s executive council and their autonomy in internal administration matters\(^29\). The Chin, Kachin and Shan agreed to join the future federal union as autonomous communities. However, the Karen, Karenni, Rakhine (or Arakanese) and the Mon did not

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\(^{27}\) Ibid., 1965, p.83.

\(^{28}\) Ibid., p.84.

\(^{29}\) The Panglong agreement was actually required by the British as a condition for independence. As a “quick fix”, it bears many weaknesses, which created opportunities for rivalry among ethnic groups and armed struggle with central government.
sign the Panglong agreement, which seriously challenged its credibility. Nevertheless, such a step in the dialogue between the Burman and the minorities had not yet been reached again.

As expected, the AFPFL won the elections, and Aung San presided the writing of the constitution, preaching for “unity in diversity” that could be achieved by a federal system. However, his and other officials’ assassination in July 1947 undoubtedly affected the democratisation process, and the declaration of Burma’s independence from the Commonwealth on the 4th January 1948 did not prevent the hope of national unity to fall apart.

2.3. POST-COLONIAL CONTEXT.

From the assassination of Aung San in 1948 to the formation of military caretaker government in 1958, Burma faced a situation of quasi-civil war.

Indeed, after the death of the architect of Burma independence and father of the democratic movement, some parties or ethnic groups turned to armed conflict to achieve their political goals. The main were the Communists Party of Burma, who started the struggle, and the Karen Nation Union and its armed branch the Karen National Liberation Army. Other minority groups also rebelled against the central government of Nu, Aung San’s successor. Even soldiers of the Union Army and volunteers of the armed wing of the AFPFL deserted to join the rebellion.

The main reason for insurgency was that the 1947 Constitution, intended to reflect the plurality of interests of the population and to distribute fairly the nation’s wealth, was in fact quite discriminating: “the 1947 Constitution further deepened the emerging fault lines by giving unequal rights to different ethnic groups”30.

By 1958, rebellion movement lessened, but power struggle between AFPFL leaders and revelations of corruption and crime involving the later created another source of unrest as the party split. According to Josef Silverstein, U Nu turned to General Ne Win to replace him and formed a caretaker government to restore peace, law and order. Ne Win’s government was also in charge of organizing new elections.

Therefore, in April 1960, a section of the AFPFL led by U Nu acceded to power. However part of its program did not fit to the some minorities, and especially to all non-Buddhist people as the new government wanted to establish Buddhism as the state religion. Moreover, “The return of civil government brought with it a relaxation of internal security measures, and as a result crime and lawlessness increased”\textsuperscript{31}. Nevertheless, in order to restore harmony between Burmese peoples, U Nu call on all minority groups representatives to meet in Rangoon and find “permanent and lasting solutions to the political causes of disunity and political unrest”\textsuperscript{32}, that is to say discuss the modality of a federal Burma.

However, before the negotiations ended, General Ne Win and the army seized power arrested all minorities’ leaders and dismissed the parliament. Following the coup, Ne Win and a Revolutionary Council, composed of seventeen army’s leaders, reorganized the state in order to centralize all power under military rule. According to Bruce Matthew, Ne Win’s coup was at first welcomed by the people, in this insecure period, as he had proved his attachment to democracy during its efficient caretaker Prime Minister’s mandate\textsuperscript{33}.

In spite of this, this event signed the end of Burma experience of democracy. Martial law was not invoked, but the government appointed judges. To the same extent, at first, press and political parties could still operate as soon as not opposition to the new government was formulated. But soon, the government increased its control over the population:

“Since, 1962, the government has mercilessly crushed every manifestation of dissent; it has obsessively monitored the conversations, individual behaviour, and social interactions of the population; and it has attempted to deny its peoples the exercise of any political freedom.”\textsuperscript{34}

For instance, student’s political activity was severely constrained, universities closed several time and each demonstration led to violent repression and hundred of detentions.

\textsuperscript{31} SILVERSTEIN Josef, “Burma”, in KAHIN George McTurnan, 1965, p.91.
\textsuperscript{32} Id., 2002 p.11.
\textsuperscript{33} Moreover, General Ne Win was one of the “Thirty Heroes” of the fight for independence, alongside General Aung San.
\textsuperscript{34} FERRARA Frederico, 2003, p.2.
The new government followed on the socialist orientation of the AFPFL, and initiate *The Burmese Way to Socialism*, an ideological base for its policies involving “(...) the nationalisation of the economy and an inward-looking strategy for national self-renewal”\(^{35}\). Accordingly, in 1974, the Revolutionary Council renamed itself the Burma Socialist Program Party.

The army had finally arisen as a powerful political force that eroded the diversity of the Burmese political scene by muzzling all forms of opposition and imposing a one-party rule. The 1974 Constitution restricted the rights of the people to the ones of the citizen, which were not absolute. “They were limited by the goals of the state and tied to duties”\(^{36}\).

The government policy toward the ethnic issue was to “de-politicized ethnicity by promoting equal rights and equal status for all ethnic groups within a common nation”\(^{37}\). Hence, the military rejected claims of political autonomy, and increased its control on minorities’ regions. Even more critical, the government eliminated minorities’ special councils and ministries. Moreover, within the army, Burman gradually replaced members originated from ethnic minority groups.

This mismanagement of ethnic minority groups’ claims led to the resume of wars in the mid-1960s. The communist forces, helped by the Chinese Communist Party, took control of part of the Shan state, and absorbed local armies. In 1976, eleven ethnic pro-federalism organisations formed the National Democratic Front. According to the ICG, the history of ethnic struggles is highly complex, as groups formed loose alliances, fights each other for territories and resources, and in this attempt even cooperate with the military. Some groups, claiming to share ethnic nationalist motives, benefited from the CPB or major ethnic organisation’s provision of arm and training and then turned into “criminal gangs raised by warlords for personal gains”\(^{38}\). Finally, many groups took up position in the mountains, and lived on taxation, smuggling and opium production. Counter-insurgency operations had harmful effects on civilians as the army destroyed plantations and

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\(^{35}\) NAIR Sheila, 2002, p.264.


\(^{37}\) International crisis Group, Asia report n°52, 2003, p.3.

\(^{38}\) Ibid., p.4.
livestock to weaken ethnic nationalist armies. Many Chinese were forced to exodus, and Arakanese Muslims, trapped between the military and ethnic armies, experienced several pogroms\textsuperscript{39}.

2.4. **THE EMERGENCE OF THE BURMESE DEMOCRATIC MOVEMENT.**

Growing discontentment and opposition to centralised power, repression and economic mismanagement\textsuperscript{40} finally erupted in massive pro-democratic demonstrations in summer 1988. The movement was actually launched by students, who organized pacific protests in September 1987, March and June 1988.

In the country’s political life, since the 1930s, students represented an influential pressure group, due to “the respect and deference”\textsuperscript{41} paid to them by the population. United through the All Burma Federation of Student Unions, headed by the Rangoon University Student Union, student union provided a platform where “most future political and social leaders, such as Aung San, gained their first real political experiences”\textsuperscript{42}. In 1962, students protested against the restriction put on their political activity by the military regime. This resulted in the destruction of the Rangoon University Student Union’s building, the outlaw of the All Burma Federation of Student Unions, hundreds of arrests, and the closure of universities.

In autumn 1987 and spring 1988, revolted by the military mismanagement of the economy, the student federation emerged again and organized several protests, but failed to induce a general uprising.

“During violent clashes with the Burmese riot police, unarmed students were fired upon, beaten, and clubbed to death. Hundreds were murdered, arrested, tortured, and gang raped in state prison”\textsuperscript{43}.

\textsuperscript{39} MATTHEWS Bruce, 2001, p.7-8.
\textsuperscript{40} In September 1987, the government demonetized all bank notes superior to $2.50 in value to fight inflation and black market. Hence, 60 to 80% of the money in circulation became worthless. Source: Aun-Thwin Maureen, “Burmese days”, in *Foreign affairs* n°68, 1989, p.152-153, quoted by the Institute for International Economics’ web site: [http://www.iie.com/research/topics/sanctions/myanmar.htm](http://www.iie.com/research/topics/sanctions/myanmar.htm); FERRARA Frederico, 2003, p.31.
\textsuperscript{42} SILVERSTEIN Josef, 2002, p.8.
\textsuperscript{43} FERRARA Frederico, 2003, p.3.
The brutal crackdown of the student’s initiative added to the imposition of curfew in major cities and martial law, pushed hundreds of thousands of protestors in the street on the 8th of August 1988. General strikes erupted all over Burma. Dissidents asked for democracy and freedom through a multiparty political system respectful of human, social and political rights.

They also demanded the removal of General Sein Lwin, former head of the police, “known as “the butcher of Rangoon” (...) for blowing up the student union in 1962, crushing student protests in 1974, and massacring young students in March and June 1988”44. Indeed, after 26 years of power, Ne Win had resigned in July 1988 taking personal responsibility for the deaths of spring’s protestors. He pledged a forthcoming political referendum, but appointed to power the real person to blame, Sein Lwin45.

Loyal to its reputation Sein Lwin orchestrated the “8-8-8 massacre”, as the armed forces opened fire on the unarmed crowd. Demonstrations turned into riots. For the sole town of Rangoon, “it is estimated that between August 8 and August 12, the armed forces (...) killed 3,000, injured 1,000, and arrested 2,000 demonstrators”46. On the other side, people “overran and occupied police stations and government buildings, torched the living quarters of party officials, and often brutally murdered actual or suspected members of the security forces”47.

Despite of the violent crackdown of the uprising movement, the protest did not subside. According to Frederico Ferrara, the people’s uncompromising attitude, was encouraged by the prevalent view spread by foreign media, that the military regime was “weak, incompetent and even stupid”48 and more than ever falling apart.

Surprisingly, Sein Lwin resigned on the 12th. Protests intensified as the regime appointed of Former Attorney General Maung Maung at the head of the government. A million people demonstrated in Rangoon, with new leaders rising to fame, such as Aung San Suu Kyi, while 700,000 protesters marched on Mandalay49. Despite lifting martial law, freeing

44 Ibid., p.7.
46 FERRARA Frederico, 2003, p.4.
47 Ibid., p.5.
48 Ibid., p.6. The author refers to the New York Times which had “prematurely discussed the imminent victory of the rebels, the transition and the beginning of a new era for Burma” (ibid.).
49 Ibid., p.11.
2,000 dissidents and proposing to hold multiparty elections, the government remained unable to restore social peace. In fact, as maintained by Ferrara\textsuperscript{50}, the army’s plan was to create reinforce instability and anarchy, to spread fear and suspicion among the people and dissolve the democratic movement. Thus, by placing the people in front of the Hobbes’s dilemma, the military intended to stir up the population’s need for social order. Accordingly, the junta freed criminals, and even paid them, to sabotage demonstration, poison water supplies, and pillage private warehouse. Lawlessness added to the shortage of food, medicines and fuel, promptly gave way to paranoia and crime: people retreat to their home, abandoning the streets where lynching and public executions arose.

On September the 18\textsuperscript{th}, the army “decided to resume the supply of social order”\textsuperscript{51}. The junta, with General Maung Maung as prime minister, restored martial law, ended the Burma Socialist Program Party, and declared itself the State law and Order Council (SLORC). It also announced that elections would be held, once turmoil will end, to elect the members of a Pyithu Hluttaw, that is to say a national parliament.

Between, the 18\textsuperscript{th} and the 21\textsuperscript{st}, the junta massacred thousands of dissidents to re-establish control. Many students fled to Thailand.

The government finally set up elections for May 1990, and nearly 200 political parties were registered. It is in this context that Aung San Suu Kyi and other opposition leaders formed the National League for Democracy (NLD). During their campaign, they opened offices all over the country and attracted two millions members\textsuperscript{52}. The NLD quickly emerged as the leading opposition party, attracting large crowds in meeting despite the SLORC decree against public gatherings of more than four people. In July 1989, after an interview where she argue in favour of a full economic boycott on Burma/Myanmar, Aung San Suu Kyi, and U Tin Oo, both leaders of the NLD, are placed under house arrest and disqualified for the elections. Nevertheless, on 27 May 1990, the NLD won 392 out of 485 seats, whereas the regime-backed National Unity Party won only 3% of the seats. Aung San Suu Kyi, NLD general secretary, was awarded the

\textsuperscript{50} Ibid., p.11-17.
\textsuperscript{51} Ibid., p.17.

The United Nationalities League for Democracy (UNLD) established in 1989 as an umbrella political organization for the non-Burman nationalities in Burma contested the 1990 general election under the slogan of "democracy and equality". UNLD members called for the establishment of a genuine federal union based on democratic rights for all citizens, political equality for all nationalities and the right of self-determination for all member states of the Union. Election results established the UNLD as the second largest political party in Burma. Indeed, the party won 35% of the popular vote and 16% of parliamentary seats, i.e. 67 seats, in the national parliament of the Union of Burma. The junta never acknowledged the elections’ results.

“It refused to allow the Pyithu Hluttaw (People’s Assembly) to convene, claiming that the actual purpose of the election had been to form a constituent assembly.”

Instead, the armed forces jailed many NLD members, including elected members of the Parliament, and closed the NLD offices. Likewise, they unilaterally dissolved the UNLD, and declared it illegal.

The pressure exerted on those elected by the Burmese people, and on their families, pushed some to abandon political activism. As an International Crisis Group’s report underlines it, “while those who joined the NLD in the election campaign surely hoped for restoration of democracy, many were not prepared for such a lengthy and personally costly struggle. The regime is well aware of this, and its goal is to gradually compel enough resignations that the party can lose its legal status”.

However, if all kind of political action is prevented in Burma/Myanmar, the elected members of Parliament, from the NLD and other political formations, including ethnic minority elected representatives are still active outside the country, mainly in free areas on the Thai-Burma border. In December 1990, they formed the National Coalition Government of the Union of Burma (NCGBU) and tried to get international support. One

of the declared principles was that the NCGBU would be dissolved once democracy and human rights are restored in Burma.

2.5. MILITARY RULE.

In 1988, when the SLORC ended the 1974 constitution, General Maung Maung insisted that his intention was not to “cling to State power for long.” However, the military institution, still in power since 1962, seems determined to keep power. The country is run under martial law since the 1988 events, and the absence of constitution serves as a justification for the military regime to stay in power.

Only ten parties, including the NLD, are still authorised by the SPDC. In 1993, SLORC convoked a National Convention aimed to determine the basic principles of a new constitution’s draft. The convention assembled less than 15% of the representatives elected in 1990, and principles discussed by the delegates had to conform to the objectives of the convention, pre-defined by the SLORC. The junta is indeed particularly concerned about the political role of the Tatmadaw (armed forces) in the future constitution. The United Nations have passed many resolutions to encourage the junta to give a timetable for the convention. However, there is no sign of its near conclusion, and the NLD, which has left the Convention in 1995 due to undemocratic procedures, has been banned permanently from the convention by the SLORC.

At the end of 1997, the junta renamed itself the State Peace and Development Council (SPDC). Despite new nomination in the government, SPDC leaders remained the same as the SLORC. According to the NCGBU, “[such] cosmetic changes to improve the regime’s image have been prompted by the military regime’s desire to quell international criticism.” If Burma/Myanmar do not seems to be of any strategically importance for the West, the ongoing process of political oppression, the drug issue, and

55 Ibid.
56 NCGBU, 2002, CD-Rom version, Historical Background.
some key events such as the death of a European embassor, finally attracted the attention of Western government, who revised their attitude toward Rangoon in 1996. On that year, Aung San Suu Kyi called for economic sanctions against the junta to “make it quite clear that economic change is not possible without political change”\textsuperscript{57}. The government had ended the socialist orientation of the pre-1988 regime, and moved from economic isolation, to free-market economy. In order to attract foreign investments, liberal investment laws were passed, and highly profitable concession’s rights over Burma/Myanmar’s abundant natural resources were granted to foreign firms, especially Thai ones, to rebuilt foreign exchanges reserves. Nevertheless, no political changes occurred, as for the government “(…) the overwhelming majority of the people in Myanmar as natural as are elsewhere in the third world countries are not obsessed with politics. They do not see freedom solely in terms of the right to vote periodically and demonstrate and express political views publicly\textsuperscript{58}”.  

In the junta’s logic, “the Armed Forces of Myanmar managed to save the country from disintegrating and from becoming a war zone”\textsuperscript{59}. The emphasis on the security issue and the preservation of the national unity, at least in a territorial point of view, is present throughout the junta’s policies. If, the junta is sensitive on any external menace\textsuperscript{60}, its prior concern is the internal struggle with the ethnic minority armies that do not want to surrender. Between 1989 and 1997, around 20 armed ethnic minorities’ organisations have signed cease fires agreements with the junta, in order to participate to political negotiations about Burma/Myanmar’s future, such as the National Convention. However, the political consequences of such agreements is limited, any kind of political activity is banned. On an economic point of view, the minorities are still occupying the rich endowed peripheral part of the country, but their resources are traded to foreign

\textsuperscript{57} International Herald Tribune, 19 July 1996, p.4, quoted by the Institute for International Economics’ web site: \url{http://www.iie.com/research/topics/sanctions/myanmar.htm}  
\textsuperscript{58} Document of the Burma/Myanmar’s embassy in Pakistan,, p.23.  
\textsuperscript{59} Ibid., p. 16  
\textsuperscript{60} In the words of the junta, Burma/Myanmar facing external threats as “It is (...) strategically located between South Asia and South East Asia. More interestingly, Myanmar is sandwiched between the two most populous nations in the World-- China and India. Bangladesh, 5 times smaller in size with a population 3 times larger than Myanmar, is another of her neighbors. The former, unlike Myanmar is not blessed with abundant natural resources, in addition to which she has the misfortune to be battered by natural disasters almost every year.” Ibid., p. 3.
companies by the government, and the benefit of the sale is most of the time used for military purposes.

Armed struggle continue between the junta and non-ceasefire groups, and take the form of guerrilla warfare. Nevertheless, the later are in a defensive position, and it is worthy to note that “even if all the ethnic armies, including the ceasefire groups, were to unite, they would lack the military capacity to take the capital, and the Burman population no doubt would rise up behind the national army to protect their dominant position.”

Yet, the junta keep justifying the lack of individual freedom by security imperatives:

“(…) the Myanmar Government has as most developing countries in the East, been prioritizing community rights at this stage of her development rather than giving priority to individual rights like the developed countries at present going through. One of Myanmar's top priorities in her basic human rights is to provide her citizens with security. [...] Breaking the fragile and hard-won peace, stability and national unity by introducing excessive political rights at this stage of development would deprive Myanmar of her chance to start building up her democratic institutions with a solid foundation first (...)”

In the same way, the “Burmanisation” program implemented by the junta, fit in the security argument. The denial of specific cultural, religious or political rights to the ethnic minority groups is explained by the necessity of unity, under the “Burman way of life”. As a result, Burmese language is imposed as the national language. None of the ethnic minority language is available in education, even as a second language, publication in minority language is rare, and Burmese signboards even replace the traditional ones indicating the names of ethnic minority villages. Minority traditional

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62 The junta also argued that Western democracy cannot be implemented in Asia, due a difference of tradition and culture.
63 Document of the Burma/Myanmar’s embassy in Pakistan, p. 22-24
64 For the Human rights Documentation Unit: “Education is thereby used as a weapon rather than as a tool for individual and national development. By consciously denying ethnic minorities equal educational opportunities today, the military government is setting the stage for discrimination for years to come”. National Coalition Government of the Union of Burma, 2002, CD-Rom version, chap 8
celebrations are proscribed, and any sign of cultural or religious specificity have to be removed\textsuperscript{65}. Civil or military key jobs are reserved to Burmans, or sometimes to the “Burmanised”.

More critically, ethnic minorities have to face forced relocation, forced labour to make their sites attractive for the tourist in line with a “beautification” program. When a village is relocated, people have very little time to pack their belonging and leave. They have to walk long distance in the jungle, with hungered children. They lost their houses, their fields, and their livestock. Sometimes the parents returned to the village to find food. If they are caught, they are killed by the military.

Forced labour\textsuperscript{66} is widespread in the country, and when requisitioned, people cannot avoid it unless they have enough money to pay the fines. Forced labour also imply the military, as new recruits often enrol forcibly, are obliged to built civil infrastructures, under as bad conditions as the civilians. The junta response to forced labour’s allegations refers to the Buddhist tradition according to which people have to serve the community. However, the junta betrayed herself when retorting:

“As the much needed assistance and cooperation for her nation rebuilding process are being denied and prevented by the same countries accusing her of forced labour, Myanmar has no choice but to employ whatever means available to bring development so that the people of Myanmar will be able to enjoy a better and a fuller life”\textsuperscript{67}.

Even if not involved in political activity, the all population is living under the threat of torture, arbitrary execution, detention and rapes. Those who can no longer stand the abuses they suffer, or the ones forced to move to relocation sites, formed the category of internally displaced people. According to the NCGBU, the country accounts for approximately two millions of internally displaced people. Moreover, around 332, 000 refugees from Burma/Myanmar live in the neighbouring countries\textsuperscript{68}. Internally displaced people and refugees live in extremely precarious conditions and if discovered, or send

\textsuperscript{65} For example, Burmese soldiers repainted the pagodas of Shan villages, as their colour did not fit with Burman tradition.
\textsuperscript{66} This issue will be discussed further in part 4.
\textsuperscript{67} Document of the Burma/Myanmar’s embassy in Pakistan, p. 28
back to Burma/Myanmar, endanger to be killed or tortured. This issue threatens the South-East Asian stability and security, and along with the drug production issue and the HIV/AIDS virus spread, contributes to the internationalisation the Burma/Myanmar case.

68 There is approximately 136,000 refugees in Thailand, 12,000 in China and India, 20,000 in Bangladesh. NCGBU, 2002, CD-Rom version chap. 14.
3. THE EUROPEAN UNION’S RESPONSE.

3.1. RESOLUTIONS CONCERNING THE JUNTA.

The European Union made its position toward the military regime official in 1996, when it adopted a Common Position on Burma/Myanmar. Whereas the United States took a clear position against the junta from 1989\(^{69}\), the European Union did not undertake few supranational level actions before 1996. In the late 1980s, individual member states suspended non-humanitarian bilateral aid, further to the dramatic events they witnessed, and in the early 1990s, the Community adopted an arms embargo (1990) and the suspension of defence cooperation (1991). These measures were encompassed in the 1996 Common position.

The change, which occurred on this particular year, was actually the aftermath of a dramatic diplomatic incident between Denmark and Burma/Myanmar. In April 1996, the consul in Burma/Myanmar for Denmark, Norway, Finland, Sweden and Switzerland, James Leander Nichols, was sentenced to three year in jail. The incrimination was the illegal possession of two facsimile machines and a telephone switchboard. Two month later, on June 22\(^{nd}\), James Leander Nichols died in prison. Despite Danish insistence, Burmese authorities refused the execution of an independent autopsy.

Soon after, the European Union, alongside Canada, called for a United Nations gathering on the Burmese democratisation process, and in October, the European Council took its first Common Position on Burma/Myanmar.

Actually, the Common Position introduced “soft sanctions”, taken two week before by the US government, namely, a visa ban on members of the military regime, members of the government, senior military and security officers and their families. It also suspended all high-level governmental visits to Burma/Myanmar.

\(^{69}\) In 1989, the Bush administration decertifies Burma/Myanmar from the list of country cooperating in efforts against narcotics, and by this means denied access to US assistance and Export-Import Bank. The government also opposed aid and loans from multilateral development banks. In 1990, the US government suspended Burmese eligibility to General System of Preferences’ privileges due to violations of internationally recognised workers’ rights. In 1991, Bush refused to renew a bilateral textile agreement, and in 1994, the Burma/Myanmar was put on the list of “rogue states”, which prevents the US government from financing international program for this country. (Institute for International Economics’ web site: http://www.iie.com/research/topics/sanctions/myanmar.htm)
Facing both American and European disagreement, the junta finally resumed political dialogue with the NLD in November, but did not put an end to tyranny. In fact, Amnesty International reported in February 1997 the highest level of political repression and human rights violations since 1989.

In 1997, further to a complaint by the International Confederation Free Trade Union (ICFTU) and the European Trade Union Confederation (ETUC), the European Commission launched an investigation, which asserted the widespread use of forced labour in Burma/Myanmar. Consequently, the European Union took a further step in removing the access of Burma/Myanmar to General System of Preferences’ privileges, and to the “Everything but Arms” initiative. The financial press largely reported the European Union decision, as it represented its first case of trade-sanctions related to labour practices.

However, according to Mr. Pit Cannen, in charge of the General System of Preference issues at the European Commission General Direction of External Trade, no other case of this type had been reported since. This is quite surprising, when one knows that unacceptable labour practices happened in many other countries, such as Bangladesh, Cambodia or Pakistan, all pressured by the International Labour Organisation for child labour’s widespread use. Therefore, one can wonder why Burma/Myanmar had been on the spot while its Asian neighbours did not.

Moreover, the United States suspended Burma/Myanmar rights under the General System of Preference, six years ahead of the European Union. Therefore, if one reassesses the European move, relatively to the United State attitude and the severity of the issue, what may have seemed a substantive progress, is in fact a late make up of the European Union’s own weaknesses.

Renewed every six months, the EU position was finally strengthened in April 2000 further to the relentless call for further sanctions by the NLD and non-governmental organisations (NGOs). Council regulation (EC) No 1081/2000 of 22 May 2000, introduced a ban on the supply of equipment that might be use for international repression or terrorism, and a freeze on funds held abroad by persons named in the visa
ban’s list, that is to say officials and their family. The regulation did not provide any investment sanctions as pushed for by human rights organisation. On the contrary, the Council expressed its wish to establish a “meaningful political dialogue” with the junta. This demand contradicts with the previous attitude of the European Union, which has refused to attend Asia-Europe Meeting (ASEM), if Burma/Myanmar’s officials were present, arguing that it would violate its ban on contact with the junta.

Yet, the European Union started to send Regional Director’ level troika to Burma/Myanmar, and in April 2003 the Council decided that “an exception to the ban on high-level visits will be made in the common position and a troika mission at political level will be send to Burma/Myanmar”\(^{70}\). In fact, in January 2003, the European Union had breached their own policy by allowing the junta’s officials to attend the 14th EU-ASEAN Ministerial (ASEM) meeting held in Brussels. The April decisions aimed to reassure the junta as the Council “stressed the natural role that the armed forces will have to play in a future democracy”\(^{72}\). It also aims to induce good policies and quick moves toward democracy by asserting the “reversibility of existing provisions of the common position”\(^{73}\) and holding on further expansion of sanctions. However, such a soft attitude had no impact on the junta as recent events have attested it. In fact, EU sanctions are not harmful enough, otherwise the requirements for their removal would have been definitely considered by the junta.

Further to the harder behaviour of the military regime, who arrested Aung San Suu Kyi and other members of the NLD in May 2003, the European Union expanded its sanctions on Burma/Myanmar by amending Common position 2003/297/CFSP adopted in April, through Council decision 2003/461/CFSP of 20 June 2003 (cf. both documents in Appendix 3)

3.2. **AID CAMPAIGN FOR UP-ROOTED PEOPLE AND AGAINST AIDS’ SPREAD.**

\(^{70}\) i.e. higher level than previously.

\(^{71}\) General Affairs and External relations Council’s conclusions, 14 April 2003, European Commission’s web site: [http://www.europa.eu.int/external_relations/myanmar/intro/gac.htm](http://www.europa.eu.int/external_relations/myanmar/intro/gac.htm)

\(^{72}\) Ibid.

\(^{73}\) Ibid.
The primary concerns of the European Union are humanitarian. In accordance with the Common Position, there is no bilateral co-operation programme with the military regime.

3.2.1. EU community aid related to up-rooted people.

According to the Burmese government in exile, the NCGBU, there is approximately 136,000 refugees in Thailand, 12,000 in China and India, 20,000 in Bangladesh. However, the total number of Burmese refugees could be well over a million people, if one includes migrant workers living in Thailand, Bangladesh, India, Pakistan and Malaysia, who have fled from Burma/Myanmar for same reasons than official refugees.

Once they manage to leave their country, Burmese refugees have to face many others difficulties. In fact, many are sent back by local authorities directly to their tormenters, in SPDC military camps, where they are tortured, raped, taken to long portering task, or executed.

Yet, as the NCGBU underlines it:

“The Refugee Convention states that refugee protection rests on the principle of non-refoulement, which dictates that no refugee should be returned to any country where he or she is likely to face persecution on grounds of race, religion, nationality, political opinion, or membership of a particular social group. This principle has been repeatedly violated by the governments of Bangladesh, India, and Thailand, who continue to forcibly repatriate refugees back to areas where their safety cannot be guaranteed.”

Among the refugees in Bangladesh and Malaysia, one of the most victimised groups is the Muslim Rohingya coming from the Arakan State. In Burma/Myanmar, this people “suffer[s] human rights abuses above and beyond their non-Rohingya Buddhist neighbours living in the same area” as they face both ethnic and religious discrimination and this since the Burmese independence. As a result, most Rohingya have never been given Burmese citizenship. On this ground, they possess a precarious status as

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75 Ibid.
76 Ibid.
both migrants and refugees, and if repatriated, the Burmese authorities refuse to accept them back. According to the NCGBU, a 2000 Human Rights Watch Report criticized both the UNHCR and the Malaysian Government for the treatment of Muslim Rohingya refugees in Malaysia:

“The Malaysian police and immigration officers (...) are ignorant of what it is to be a refugee and that because detainees are kept out of the view of international monitors, they are beaten, robbed, inadequately fed and denied medical care in detention camps. Rohingya children are often not allowed to go to school and have been detained with adult non-relatives and deported alone.”\(^{77}\)

The Chin refugees in India, and Shan people in Thailand also face similar treatments, and all share the constant threat of repatriation. Moreover, abroad, refugees still suffer from disrespect of their basic rights. Many women are raped by immigration officers, and/or enrolled in prostitution networks, especially in Thailand. Nevertheless, once in a camp, their personal security increased.

Yet, refugee’s camps are highly affected by HIV/AIDS and drug addiction. Births rates are extremely high: in Thailand refugee camps, they can reach 4%, while the Thai population’s growth rate is 1%\(^{78}\). Thus, overcrowded camps contribute to the spread of the diseases, especially HIV/AIDS, the shortage of basic resources, and thus, reinforce children’s physical, psychological and social development’s damages.

EU funds allocated to the refugees’ issue are channelled through United Nations High Commission for Refugees (UNHCR) programmes, and through the European Community Humanitarian Office (ECHO).

UNHCR programmes are funded by voluntary donations. The European Union has decided to focus its participation on the \textit{UNHCR Programme of Assistance to Rohingya returnees in Burma-Myanmar and Rohingya refugees in Bangladesh}. As indicated by its name, this project deals with the repatriation and the reintegration of Rohingya refugees from Bangladesh, ensuring \textit{“safe and timely logistical support to}\(^{77}\) \cite{Ibid.} \(^{78}\) \cite{Ibid.}
refugees wishing to be repatriated. According to the European Union, the UNHCR main role in Burma/Myanmar is to ensure the respect of returnees’ basic rights. The project also provides sustainable forms of income to the poorest, as it aims to increase agricultural productivity and diversity, and enhance local infrastructures and community services. For the 1999-2000’s period, the project’s total budget was over €13 million for both Rakhine state in Burma/Myanmar, and Cox Bazaar area in Bangladesh. The European Union contributed to 66% of the funding.

Through ECHO, the European Union is primarily active in Thailand, where it provides substantial assistance to Burmese inside and outside refugees’ camps, and in Bangladesh, in the camps of Kuta Palong and Nayapura. Since 1995, ECHO works with major NGOs, whose main action is the provision of health services both on preventive and curative grounds, and of basic food products. NGOs also try to improve camps’ installation such as water supply systems. In 2001, the ECHO budget allocated to Burmese refugees living on Thai border camps was €4.5 million. It doubled in 2002, to €8.965 millions. According to the Delegation of the European Commission to Thailand, the main supportive member states were Denmark, France, Germany, Ireland, the Netherlands and Sweden.

It is worthwhile to note that in 2001, ECHO also funded NGOs actions for internally displaced people, that is to say people living in precarious situation inside Burma/Myanmar, who had to leave their house, either due to forced relocation to SDPC relocation sites, or voluntarily to escape the military cruelty. Moreover, “ECHO finances a number of NGO projects working primarily in ethnic minority areas and townships. These focus on water, sanitation and medical care, reproductive health and

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80 Besides ECHO, the European Commission possesses also an independent budget line for its "Aid to uprooted people" project.
In March 2003, the United Nations estimated at one million people being internally displaced.

This raises the issue of how to extend the European Union and other foreign actors legitimise the military regime by such actions. Indeed, when Western governments provide ex-post aid packages to offset disasters caused by their own negligence to take coercive measures against the junta, it is as if they were closing their eyes on such violations. The NLD, considered by many states as the voice of the Burmese people had taken strong position for sanctions and against any kind of help. It argues that what is needed in Burma/Myanmar is a real change. Hence, on this perspective one can fear that the European Union aid program hide a compensation for its political indolence. Nevertheless, it is almost impossible to foresee what would be the best attitude to instigate a change in Burma/Myanmar. Furthermore, as the International crisis group underlines it, to restore democracy it is vital to take “immediate action to alleviate the humanitarian crisis, which over the past few years has caused more and more people to sink into despair, diminishing the prospects for positive change.”

3.2.2. EU community aid related to the spread of the HIV/AIDS virus


In June 2000, Joint United Nations Program on HIV and AIDS estimated that the virus infected more than 530,000 people, i.e. one adult over fifty. Furthermore, infection rates in sub-populations with risky behaviour, such as drug users and sex workers, are among the highest in Asia. For the ICG, the widespread incidence of HIV/AIDS is a security issue in itself, and if “the government in Yangon has been quick to establish a surveillance system and nominal AIDS control structures [it has been] very slow to take any action that would slow the spread of the virus.”

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83 International Crisis Group report n°28, p.ii.
84 International Crisis Group, Myanmar Briefing, 2 April 2002, p.1
85 Ibid., quoting the Joint United Nations Program on HIV and AIDS.
86 Ibid.
Actually, Burma/Myanmar experiences the second worst HIV/AIDS epidemic in Asia after Cambodia, and the weak reliance of data suggests that the case is nearly hopeless. A World Health Organisation (WHO) report, quoted by the NCGBU, exposes the several factors contributing to this scenario.

- The first one is the official denial of the expansion of the virus, by the most part of the ruling junta. Actually, the military regime rejects foreign estimations and accuses the responsible organisations of conspiracy against Burma/Myanmar.

- Accordingly, the lack of political will is reflected in the collapse of the health sector. Government expenditures for civilian health care in 1998-99 accounted for only 0.3 percent of GDP, with a national HIV prevention budget for 1998 estimated at $50,000 for a population of 48 million people.

- The third element of the problem is an unclean blood supply. For example, the WHO reveals that “prisoners are sometimes bribed with the promise of extra food (such as a single egg) to donate blood, and the equipment used is rarely cleaned or sterilized.” Considering the cruel lack of hygiene in Burmese prison, and the fact that a needle is served for many people, blood transfusions constitute a serious channel of HIV/AIDS transmission.

- Another issue of particular importance is the existence of a large poorly educated and unpaid army. When troops are allocated to the so-called black area, i.e. the remote ethnic minorities’ regions, they are allowed to “help themselves” as a compensation for insufficient earnings. As a result, they seize local population’s belonging, take them to force portering expeditions, and rape and torture women. For instance, SPDC soldiers have raped 623 women in the Shan state between 1996 and 2001.

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87 The NCGBU is referring to an article from The Washington Quarterly. This article cites the 2000 World Health Report (Performance of ASEAN Health Care Systems given the level of resources from WHO). The reference of this article is The Washington Quarterly, “the Regional Impact of HIV and Aids Accelerating and Disseminating across Asia”, Winter 2001, Vol. 24, N°1, p. 211.

One can also refer to the op-cited NCGBU, 2002, CD-Rom version chap 9.3.


89 On this particular issue, one as to read the well document report of the Shan Human Rights Foundation and the Shan Women’s Action Network called License to Rape. The report covers rapes committed from 1996 until 2001 by SPDC soldiers against ethnic nationalities women in Shan State. It details 173 rape cases, involving 625 girls and women, the youngest victim being 5 years, involving 52 battalions. 83% of the accused(s) is/are being of Officer Rank, 63% of the cases involved gang-rapes and 25% resulted in the murder of the victims, who were either shot, beaten, suffocated, stabbed or burned to death. The report is available on the following website:
As in former-Yugoslavia, rape is used by the Tatmadaw as a weapon of war against ethnic minority groups.

- The report also underlines that some states in Burma witness the highest infection rates of HIV/AIDS contamination among drug users ever reported (more than 90%). The remaining factors are a growing sex industry, and movements of population.

The European Union’s involvement in the fighting of HIV/AIDS crisis is less significant than the aid to up-rooted people. Funds are also directed to the relevant UN program, the United Nations Joint Program on HIV/AIDS (UNAIDS), and NGOs projects.

In 2001, further to the EU Troika’s visit, two teams of experts representing the European Union visited Myanmar to assess the situation. On this particular year, the European Union allocated €2 millions for humanitarian aid in Burma/Myanmar. However, the HIV/AIDS issue was one among others that has to be dealt with this budget.

According to the ICG, “the combined budget of all national and international organizations in 2000 was approximately U.S.$ 3 millions, or just 2.5 percent of the budget in Thailand, which as similar epidemic”\(^90\). People of Burma/Myanmar are also affected by malaria, which kills 30 000 people per year\(^91\), and malnutrition, which caused severe damages to children mental and physical health.

The extent and gravity of Burma/Myanmar’s humanitarian crisis is thus far to be counterbalanced by both current national and international interventions. Some states are sensible to the position of the pro-democratic opposition against aid. However, SPDC policies\(^92\) have reduced the mental and physical faculties of a whole generation of future adults’ faculties. Children issued from ethnic minority groups are the most harmed, as they are actually targeted by the military.

http://www.shanland.org/shrf/License_to_Rape/license_to_rape.htm

\(^90\) International Crisis Group, Myanmar Briefing, 2 April 2002, p.7.

\(^91\) Ibid, p.9.

\(^92\) Malnutrition, lack of sodium for example, has sharply and irreversibly damaged Burmese children’s brains. Moreover, according to the ICG, only 30% on Burmese children get proper primary schooling (Ibid.). On top of this, widespread insecurity, forced relocation, forced enrolment of child soldiers, rapes, torture and killings, create a environment devastating psychological health of children and of the all population.
In other words, if political imperatives have to be considered, the sluggish path of reforms should not overshadow the basic human needs of the population. On the contrary, international community should use the urgent character of the crisis to put the junta in front of its responsibilities, both national and international. International law provides specific tools that fit with the Burma/Myanmar case, related to crimes against humanity and genocide, and both HIV/AIDS spread and influx of refugees threaten the international peace and security, and as such should be handled by the UN Security Council.
4. **The Internationalisation of the Burma/Myanmar’s Issue.**

4.1. **Non-states Actors.**

The role of non-states actors in the management of the Burmese issue is controversial. In fact, one distinguishes between international non-governmental organisations (INGOs) which aimed to lessen the effect of the Burmese humanitarian crisis and works inside Burma/Myanmar\(^{93}\) or in bordering countries, and INGOs or NGOs, acting as lobbies on influential governments, including the junta itself.

As affirmed earlier, the NLD is opposed to international assistance in Burma/Myanmar, as it undermines the urgent need for political change by rendering the situation acceptable, or at least less detrimental. Moreover, the NLD asserts that international aid legitimised the military regime, as NGOs are obliged to cooperate with it, at least to get the permission to operate, and sometimes more substantially.

However, the pressure on governments and international bodies, such as the UN or the ILO, exerted by “off-site” NGOs has been decisive in the internationalisation’s process of the Burmese case. These organisations act as audit groups for the European Union, which base its bi-annual decisions principally on their reports.

Indeed, the International Confederation Free Trade Union (ICFTU) and the European Trade Union Confederation (ETUC), instigate the only-trade related sanctions adopted by the European Union in 1997. Further to their complaint, an investigation requested by the Commission asserted the widespread use of forced labour in Burma/Myanmar. Consequently, the Commission removed Burma/Myanmar’s eligibility to General System of Preferences’ privileges, and to the “Everything but Arms” initiative. More recently, the release by two Shan NGOs of *Licence to rape*\(^{94}\), a report on the use of rape as an ethnic cleansing’s weapon against the Shan ethnic group, provided a fundamental basis for states and international bodies to undertake further critics or measures against the Burmese armed forces.

\(^{93}\) Burmese NGOs are all SPDC-backed and direct by either Generals or their wives, apart from one exception, the Metta Development Foundation. (International Crisis Group, Asia report n°27, 2001, p.23.)

Similarly, the Euro-Burma Office, based in Brussels, delivers updated information on Burma/Myanmar to the European institutions, and constitutes a valuable link between the European Union, NGOs working on the Burmese issue, and the Burmese democratic movement.  

One of the major INGO committed on Burma/Myanmar, Amnesty International, contributes to the worldwide diffusion of human rights violations performed by the military regime. With more than 1,300,000 members all over the world, Amnesty International has been given a “high-ranking status” by many states and notably by the United Nations, and is deemed to represent the so-called “civil society”. In Burma/Myanmar, Amnesty International is mainly concerned by political prisoners, the use of torture, including rape, and the forced labour issue.

The international notoriety of the association permitted it to undertake an official visit in winter 2003, and meet senior officials, NLD representatives, and the local population. The UN Commission on Human Rights welcomed the visit, which and provided a fresh assessment of the situation, especially related to the administration of justice in Burma/Myanmar.  

Therefore, NGOs’ involvement is critical as they channel information through worldwide networks, including influential officials and institutions, and constitute a fundamental means of keeping governments and international bodies conscious of the role they have to play in the Burmese issue.

95 The Euro-Burma office is also active in the strengthening and empowering of the Burmese democracy movement, mainly through training for Burmese democratic activists, researchers’ seminars and meeting between the later and European political leaders.  

96 Amnesty International estimates that approximately 1300 political prisoners, mainly prisoners of conscience, that is to say imprisoned for their political or religious beliefs, remain in jail. Amnesty International, “Amnesty international first visit to Myanmar- official statement”, 2003, http://web.amnesty.org/library/Index/ENGASA160052003?open&of=ENG-MMR  

97 Additional information are provided by Amnesty International’s web site: http://www.amnesty.org
4.2. **BIG POWERS AND NEIGHBOURS STATES’ POSITIONS.**

4.2.1. **The United States.**

The United States broadly share the European Union view of the situation in Burma/Myanmar. However, they carry on a stronger policy toward Rangoon, as they are extremely concerned about the central role of Burma/Myanmar in drug production. Actually, second largest producer of opium and heroin, Burma/Myanmar is the main source of illicit drugs consumed in the US. In 1989, the United States decertified the country from the list of cooperating’ states in counter-narcotics programs, stopped development aid and removed Burma/Myanmar’s eligibility for General System of Preferences’ privileges. The US government also suspended preferential agreements on textile, and has systematically opposed itself to any loans from international institutions for military regime.

In 1994, the US Congress placed Burma/Myanmar alongside Libya, North Korea and Iraq, on the list of “outlaw” states, which implied that no Foreign Assistance’s funds could be used to finance US share in international organisation’s program for these countries. In 1996, a visa ban for Burmese officials was instigated, and a year after Clinton signed an executive order barring new US investments in Burma/Myanmar. Nevertheless, US actions are not that altruist and hide a constant caution of protecting US economical interests. Indeed, Clinton’s approval of the Congress proposal was performed at the last minute, to allow US companies to conclude investment deal before the sanctions’ execution. Of course, these sanctions are not retroactive; they concern only new investments of US firms from May 1997 onwards.

Recently, in June 2003, US Senate passes the “Burmese Freedom and Democracy Act” that would ban all imports from Burma/Myanmar, freeze the assets of Burmese government and individuals associated with it, and codify the existing visa ban and US opposition to loans for the country from international financial institutions until

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98 Most of the historical facts related to the US attitude toward Burma/Myanmar are taken from the Institute for International Economics’ web site, which provide a good chronology of events linked to the Burma/Myanmar case. [http://www.iie.com/research/topics/sanctions/myanmar.htm](http://www.iie.com/research/topics/sanctions/myanmar.htm)

99 According to the NCGBU, the Burmese supply accounts for 70% of the US market. NCGBU, 2002, CD-Rom version, Historical Background.

100 Under the Foreign Assistance Act of 1961 (Section 307).

101 This visa ban had been extended in June 2003 to managers of state-run companies and organisations associated with the junta.
Burma/Myanmar meets several conditions. If an import ban is implemented at the federal level, this would challenge the European Union who barred individual US states, like Massachusetts, to take similar initiative.

Lastly, it is useful to put emphasis on an evocative attitude of US officials, who repeatedly use the former name *Burma* to refer to Burma/Myanmar, and by this means delegitimate, and irritate, the military regime.

4.2.2. **Japan.**

Japanese attitude towards Burma/Myanmar is in many respects softer than western powers. The experience of Japanese occupation during World War II has created strong diplomatic and economic links between the two countries. Since the Ne Win era, Japan is by far the largest donor of Burma/Myanmar. Despite human rights violations performed by the current regime, Japan is still providing substantial assistance to the Burmese economy, mainly through Official Development Assistance funds. Indeed, Japan prime interest is to provide its own firms operating in Burma/Myanmar a better economic environment: “*Japanese business is keen to see a resumption of aid to Burma because it fears that it will lose out to competition from other East Asian companies. Business leaders have therefore been lobbying the government to adopt a more benign approach to SLORC*”\(^1\). Japanese aid to Burma/Myanmar for 2001 accounted for US$ 69.9 millions.\(^2\) If Japan had repeatedly call for the democratic reforms, and has often suspend aid, Japanese government’s “road map” for Burma/Myanmar is predominantly advocating for economical reforms and international financial institutions involvement.

4.2.3. **The “two giants”: China and India.**

China has traditionally considered Burma/Myanmar as part of its zone of influence. If it did supported the Burmese Communist Party uprising, and defended the socialist movement in the 1988’ events, China was the first country to recognise the military regime on the same year. “*China has (...) provided substantial economic and...*”

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technical assistance for infrastructure and factories, with a particular emphasis on improving roads from the border into the Myanmar heartland”\textsuperscript{104}. Military and commercials ties between the two states let some imply that Burma/Myanmar had become the new “client state” of China, as the later could challenge India’s supremacy in the Indian Ocean region, trough naval bases along Burmese costs.

Both countries face international criticism for their democracy and human rights records, and share the same argument of “the distinctness of Asian values and the need for developing countries to give priority to economic growth over political liberalisation”\textsuperscript{105}. However, the International Crisis Group (ICG) claim that ties between Burma/Myanmar and China are the sheer consequences of “historically unique confluence of interest”\textsuperscript{106}. Moreover, the ICG underlines that the Burmese drug traffic increases drug use and HIV/AIDS contagion among the population of some Chinese regions. In addition, China has maintained contact with the pro-democratic opposition, including ethnic minority parties. Consequently, Beijing is not keen on the military regime, and even sometimes irritated of some of its negligences, and “will cooperate with any government that comes to power in [R]angoon in the interest of stability and smooth economic relations”\textsuperscript{107}.

On the Burmese perspective, the junta is actually concerned about a too high dependence on China, and has been keen to restore diplomatic relation with India.

India is the only Asian government to criticise publicly the military regime. The largest Asian democracy has provided support to pro-democratic forces and welcomed political activists in exile. Nevertheless, concerned to be challenged by China, it has resume his relations with the junta in 1992, and had cooperate with the Tatmadaw to carry out anti-insurgents and anti-smugglers’ operations on common borders. The Indian government also supported infrastructure projects and imports large quantities of Burmese agricultural products.

\textsuperscript{104} International Crisis Group, Asia report n°28, p.20.
\textsuperscript{105} Ibid., p.21.
\textsuperscript{106} Ibid., p.22.
\textsuperscript{107} Ibid., p.21.
India is thus engaged in a “two-track approach which seeks to strengthen links with the junta while allowing individuals and organisations to criticise the regime and support the exile community”\textsuperscript{108}.

4.2.4. Association of South East Asian Nations.

The ASEAN, which grouped Indonesia, Thailand, Malaysia, Philippines, Singapore, Brunei, Vietnam, Laos, and Burma/Myanmar, primarily aim to create a prosperous environment for the economic development of its members. Therefore, “[it] has repeatedly referred to the non-interference principle as a cardinal rule for the association and adhered to it when Burma has become a member state.”\textsuperscript{109}

The organization is a significant economic partner of the European Union. Under the Asia-Europe Meeting (ASEM), which provides an arena for political dialogue between the two entities, the European Union has frequently expressed its indignation against the military regime, and even used to prevent Burma/Myanmar’s representatives to attend ministerial meetings when Burma/Myanmar became a member of the ASEAN in 1997. However, the ASEAN does not share the European policy against Rangoon and has openly criticized the European Union for interfering in its member’s internal affairs. For the European Union however, “different ways of expressing concern about violations of rights, as well as requests designed to secure those rights cannot be considered as interference in the internal affairs of a state.”\textsuperscript{110}

Moreover, according to Zaw Oo:

“The ASEAN emphasis on the non-interference principle is questionable due to its inconsistent application. In 1990, when the military junta launched an ethnic cleansing operation against the Rohingya Muslims in the western border region, some ASEAN states not only condemned the action but also lent moral and humanitarian support to the Rohingya resistance groups in Burma.”

Indeed, ASEAN is also concerned by South East Asian security, and actually accepted Burma/Myanmar in order to balance China’s growing influence. With drug trafficking, HIV/AIDS virus’ spread, and thousands of Burmese fleeing the regime, the ASEAN is caught by growing non-traditional threats, which undermine the stability of the entire

\textsuperscript{108} Ibid., p.24.
\textsuperscript{110} Ibid.
region. Moreover, after six years of constructive engagement’s policy, no substantial progress has been achieved. This failure calls in question the association policy toward the regime, and undermines the ASEAN political leverage on the junta.

Nevertheless, as an Asian association and major trade partner of Burma/Myanmar, the ASEAN is likely to influence Rangoon. If backed by the European Union the ASEAN could be a major actor of the country’s national reconciliation program. The association has actually breached its policy of non-interference few times in the past, by meeting Burmese pro-democratic leaders, and more recently, in June 2003, foreign ministers of ASEAN member states have urged the junta to release Aung San Suu Kyi and resume talks on national reconciliation and transition to democracy.

During the last ASEM meeting, EU and ASEAN foreign ministers, both “recognized that the process of national reconciliation was fragile and required a shared commitment by all to an intensified dialogue aimed at national unity, a restoration of democracy and protection of human rights and fundamental freedoms.” Moreover, the ASEAN plan to send a troika mission to Rangoon and both Thailand, which is the most affected by the junta’s mismanagement, and Malaysia, which hold presidency, press for rapid and effective changes.

4.3. INTERGOVERNMENTAL INSTITUTIONS.

4.3.1. The International Labour Internationalisation.

The actual globalisation process exposes industrialized workers to the competition of low-waged country’s ones, and renders sharper the contest between states to attract multinational firms. Increasingly, Northern trade unions, and human rights organisations raise the issue of human rights abuses related to working conditions, and call for the imposition of core labour standards in trade agreements. Such a will can be apprehended from both an altruist and a more self-motivated perspective, but nevertheless, it permitts to the International Labour Organisation to play a greater role in international trade relations.


In 1996, ILO workers delegates, including the ICFTU, filed a complaint regarding the use of forced labour in Burma/Myanmar. The complaint was made under Article 26 of the ILO Constitution, which provides the ILO to send a mission to the member state implicated, with the approval of the later. The Commission Inquiry, appointed in March 1997, delivered its report in July 1998, which attested the “widespread and systematic” use for forced labour in Burma/Myanmar.

Consequently, the ILO called the military regime to bring its laws and practices in compliance with its obligation under the 1930 ILO Convention n°29 by May 1999. In June 1999, facing the junta’s disregard, the ILO approved a resolution which condemned the non-compliance of Burma/Myanmar, prohibited technical assistance to the country, except the one needed to implement the recommendation, and banned it from most ILO meetings. The resolution also called for further action under Article 33, never used since the ILO creation, if the junta continued to ignore ILO requirements. It was the first time in the ILO history that such a decision was undertaken, and even if in fact a member cannot be excluded from governing bodies and ILO meetings, the symbolic impact was considerable.

The ILO kept its promise as in March 2000, it invoked Article 33 of its Convention in order to recommend to the ILO Conference, scheduled for June, to take the suitable actions to ensure Burma/Myanmar’s obedience and if needed, to call other international organisations to revise their relationship with this country. Few days before the Conference, Burma/Myanmar ensured that the ILO could send a mission to testify its obligations’ fulfilment. Further to the negative conclusions of the ILO delegation’s investigation in October, the ILO, in an unprecedented move in November 2000, urged its member’s governments, trade unions and employer groups, to impose sanctions and review their dealings with Burma/Myanmar to ensure they are not abetting forced labour.

The ILO tough line showed rapidly its results. In January 2001, the junta alleged that it has been holding secret talks with the Aung San Suu Kyi since October, albeit there was no political dialogue between the government and the opposition movement for several years. According to the Institute for International Economics “many international
observers argue[d] that international economic pressure, including from the ILO, [were] partly responsible for the military conciliatory attitude”\textsuperscript{113}.

4.3.2. The United Nations.

In its last resolution, on 16 April 2003, the UN Commission on Human Rights emphasised “that good governance, democracy, the rule of law and respect for human rights are essential to achieve sustainable development and economic growth, and that good governance includes the idea of transparent, responsible, accountable and participatory government at all levels”\textsuperscript{114}. It also recalled Burma/Myanmar its obligations as a party to the Convention of the Rights of the Child, the Convention on the Elimination of all Forms of Discrimination against Women, the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Convention of 12 August 1949 for the protection of the victims of war, as well as the 1930 Convention concerning Forced or Compulsory Labour (Convention n°29) and the 1948 Convention concerning Freedom of Association and Protection of the Right to Organize (Convention n°87) of the International Labour Organisation.

Western and Asian powers have ensured the United Nations commitment to the Burma/Myanmar case, and the UN General Assembly has undertaken many resolutions addressing this issue. Each resolution condemns the junta’ mismanagement of the country and calls for quick and effective policies to offset the humanitarian crisis it engendered. Moreover, the UN strongly argues for substantial negotiations between the NLD and the government, under a process of national reconciliation, the dissemination of human rights standards and a faster path toward the restoration of democracy.

Accordingly, the United Nations appointed a Special Envoy of the Secretary-General on Burma/Myanmar, Ambassador Ismail Razali, to support the national reconciliation scheme and “bring Myanmar toward a transition to civilian rule”\textsuperscript{115}. This scheme

\textsuperscript{114} Ibid.
\textsuperscript{115} United Nations Commission on Human rights, resolution 2003/12, 16 April 2003.
implies a tripartite dialogue between the junta, the NLD and the ethnic political groups. The United Nations are indeed pushing for ethnic reconciliation, and each ethnic group has to provide a draft constitution for their state. According to the Euro-Burma office, the Chin and the Shan completed this requirement, and the Arakan state is on the way of doing so. The objective is to resolve conflict through negotiation and compromise and finally, provide Burma/Myanmar with a democratic federal Constitution.

In addition, the UN Commission on Human Right sent a Special Rapporteur, Professor Paulo Sergio Pinheiro, to witness the evolution of human rights in Burma/Myanmar. Since the Special Envoy of the Secretary-General and the Special Rapporteur of the Commission on Human Right undertook their mission, the junta had reported the release of more than 200 political prisoners\(^{116}\), including NLD elected members of the Parliament. Many of them were due to be release for a long time.

If UN interventions initiated some encouraging changes, the association is lacking of a much persuasive request, which should be expressed by the Security Council, as part of the Burma/Myanmar issue constitute a treat to the international peace and security. One could state that China is the main impediment for such an action, but knowing that Beijing had never “gone out on a limb to protect the Myanmar junta”\(^{117}\); few commercial promises from Western and Asian powers should make the Chinese government keener on pressuring the junta. Unless if Western economic interests are in fact the real obstacle to a firmer attitude toward the military regime…

4.3.3. The World trade Organisation.

Any labour-related matter brought to the World Trade Organisation (WTO) generates stormy debates. Indeed, many are opposed to the incorporation of labour standard in trade agreements, and argue that only the ILO should deal with such issues. In 1997, a polemic arose during a WTO meeting when the European Union and Japan complained about the Massachusetts’ selective purchasing legislation against firms

\(^{116}\) SILVERSTEIN Josef, 2002, p.5.
\(^{117}\) International Crisis Group, Asia report n°28, p.21.
trading with Burma/Myanmar, claiming that such a regulation was contrary to the WTO Government Procurement Agreement. In June 1996, the Commonwealth of Massachusetts had passed a legislation that “adds a ten percent premium on contracts with states agencies for companies that do business in Burma and prohibits those companies from purchasing or leasing state-owned property”\textsuperscript{118}. In addition, in November, it released a list of 234 firms susceptible to be concerned by the legislation. From 1996 to 2000, 23 other states, cities and counties followed the Massachusetts initiative\textsuperscript{119}. The United States tried to prevent the European Union to engage in a WTO dispute settlement process, but Japan joined the European Union in this action and both filed a request for consultations in June 1997.

In April 1998, further to the rejection of its negotiation’s offer by the European Union, the State of Massachusetts provided that large contracts, above the threshold in the General Procurement Agreement, which would be signed by the governor, will be exempted from the 1996 selective purchasing law. Nevertheless, a month later, the US “National Foreign Trade Council file[d] a constitutional challenge in federal district court against the Massachusetts’ selective purchasing law and [sought] an injunction to halt implementation of the law while the cases proceeds. The law is challenged on the ground that it violates constitutional provisions giving the federal government supremacy over foreign policy and international commerce”\textsuperscript{120}.

Massachusetts’s regulation is declared unconstitutional in November 1998, by the US District Court, in June 1999 by the First US Circuit Court of Appeals in Boston, and finally, on 20 June 2000, by the US Supreme Court, which holds that “the Massachusetts selective purchasing law is pre-empted by federal legislation and undermines the president’s ability to conduct foreign policy”\textsuperscript{121}.

\textsuperscript{118} Institute for International Economics’ web site, Chronology of Key events, http://www.iie.com/research/topics/sanctions/myanmar.htm
\textsuperscript{119} The 24 States, cities and counties that implemented a selective purchasing legislation concerning trade with Burma/Myanmar are: Alameda county, CA; Ann Arbor, MI; Berkeley, CA; Boulder, CO; Brookline, MA; Carrboro, NC; Chapel Hill, NC; Los Angeles, CA; Madison, WI; Massachusetts; New York, NY; Newton, MA; Oakland, CA; Pablo Alto, CA, Portland, OR; Quincy, MA; San Francisco, CA; San Cruz, CA; San Monica, CA; Somerville, MA; Takoma Park, MD; Vermont ; and West Hollywood, CA. (Ibid.)
\textsuperscript{120} Ibid.
\textsuperscript{121} Ibid.
Therefore, the United States, who had objected the WTO panel on Massachusetts’s law, in September 1998, had irrevocably rendered it useless. However, in June 2003, the US Senate passed the “Burmese Freedom and Democracy Act” that would ban all imports from Burma/Myanmar, if approved by the presidency.

The Massachusetts’s case seriously contravenes to the European Union’s position of sanctioning the Burmese military regime. Indeed, the critical lack of co-operation between major influential actors on the junta, such as the United States, Japan, the European Union and the ASEAN, drastically affects the impact of each of this entities’ policy. In the present case, the European Union and Japan have voluntarily sabotage an initiative that could have had a substantial impact on the Burmese dictatorship. If one disregards a simplistic explanation related to the acute competition between the entities of the Triad, which is completely unleashed within the WTO dispute settlement’s arena, the other rational justification of the EU attitude is the protection of its economic interest. Indeed, British, French and even Danish firms have considerable investments in Burma/Myanmar. The spread among US States, cities and counties of selective purchasing legislation against firms trading with Burma/Myanmar would have seriously challenges European and Japanese companies’ opportunities in the United States, and elsewhere considering the bad reputation they would have had. Once again, economical considerations prevailed over political aims.
5. **Sanctions in international relations: analysis of the European Union’s strategy.**

According to Zachary Selden, “*economic sanctions fit in between two poles: military action and inaction*”\(^{122}\). In a world order where international law tries to regulate the use of force between States and to protect the principle of non-interference, sanctions “*take into account the general interest of respect for law combined with the need to safeguard peaceful international relations*”\(^{123}\). Moreover, the growing interdependence between national economies has made the use of economic or financial sanctions easier, although not more effective, if some states do not co-operate.

5.1. **Objectives: the choice of targeted or “smart” sanctions.**

The main motive of sanctioning states is to signal their disapproval of a breach of international rules. Indeed, sanctions do not aim at damaging the economy of the targeted country, but have merely a symbolic weight. “*They are primarily intended to dramatize and articulate the condemnation of a certain form of behaviour and, by the same token (...) to prove to the world public opinion that the responsible State was wrong inasmuch as it had acted contrary to internationally accepted standards.*”\(^{124}\)

In fact, the history of sanctions genuinely attests the ineffectiveness of economic sanctions as a means to affect a targeted State, and thereby bringing about the political change wished. However, by signalling to the other international players that this particular State does not fulfil its international duties, sanctions provide a good method of bargaining.

Along these lines, economists and lawyers have become increasingly aware of the impact of sanctions upon vulnerable members of targeted countries’ civilian population in. In 1997, the United Nations Committee on Economic Social and Cultural Right, reminded the international community to ensure, when imposing sanctions, that: “*the inhabitants of a given country do not forfeit their basic economic, social and cultural rights by virtue of*”

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\(^{122}\) SEDLEN Zachary, 1999, p.2.


\(^{124}\) Ibid., p.242.
any determination that their leaders have violated norms relating to international peace and security”\textsuperscript{125}.

The sanctions impose on Burma/Myanmar by the European Union respect this requirement. Actually, they fall into the category of “smart sanctions”, which target only the ruling elite responsible of the violation.

5.2. Methods of application.

Further to the 8-8-88 massacre, Western governments terminated all non-humanitarian bilateral aid. Sanctions instigated by the European Union from 1990 onwards are mainly targeted sanctions. One distinguishes the arm embargo imposed in 1990, the suspension of defence cooperation since 1991, and the 1996 measures: a visa ban on members of the military regime, members of the government, senior military and security officers and their families.

The visa ban do not concern the SPDC foreign minister, as the European Union is keen to establish a “meaningful political dialogue” with the government, and Regional Director level troika has been sent to Burma/Myanmar. Thus, the European Union progressively loosened diplomatic sanctions on the junta.

In 2000, the arm embargo was expanded to items that might be used for internal repression or international terrorism. In addition, cooperation between members States for the implementation of the visa ban was strengthened, and more important, a freeze on funds held abroad by the persons named on the visa ban list was instigated. This list was extended in 2003.

According to Mr Straver, from the European Commission, such sanctions are really targeted ones, and their impact on trade and thus on the civilian population, is minimal. However, their effective application is quite problematic. Further to the Common Position taken by the European Council, the European Commission issues basic guidelines and recommendations for the member states to follow. From then on, no inspection procedure is envisaged. Such a task would actually be too costly to be

\textsuperscript{125} UNITED NATIONS, Committee on Economic Social and Cultural Rights, General Comment n˚8: collective sanctions, para.16, 1997; quoted by CASSESE Antonio, 2001, p.243.
implemented by the Commission, and contrary to the principle of subsidiarity. This renders the appraisal of the execution’s righteousness quite delicate.

Actually, serious doubt could be expressed, as the practical application of the determined sanctions is not as easy and automatic as it could be. For example, Mr Straver underlines the huge risk for freezing measures to have little impact on the junta. In fact, the list issued is easily passed by, as a change in a letter or a comma makes it non-viable. Furthermore, free movement of capital makes finance-related sanctions hard to be upheld. Consequently, targeted European Union sanctions do not seem to be that smart.

5.3. **Assessment of the sanction’s effectiveness.**

“The question of the efficacy of international pressure mechanisms cannot be measured on the sole criterion of impact on the target regime’s policies.”\(^{126}\) As suggested earlier, the assessment of the sanctions effectiveness on the Burmese regime is not clear-cut.

On an economic point of view, sanctions are generally known to be ineffective. If the European Union has not taken any offensive trade sanctions against Burma/Myanmar, the removal of the General System of Preferences’ privileges, is considered as a trade-related measure. Indeed, such a policy increased the price of Burmese exports relatively to other low-incomes economies countries’ exports, which benefit from preferential treatments. The actual economic impact of the benefits’ withdrawal accounts for less than 5% of the EU-Burma/Myanmar trade\(^{127}\), due to the absence of trade restrictions.

In fact, when the European Union took this decision in 1997, European imports represented only 5% of Burmese total exports, that is to say US$ 30 million\(^{128}\). Since this then, trade between the European Union and Burma/Myanmar significantly increased. For instance, Burmese exports to the European Union increased by 300% between 1999 and 2001, accounting in value for more than 220 millions US$ in 2001.\(^{129}\)

\(^{126}\) OO Zaw, 1999, p.15.

\(^{127}\) Data suggested by Mr Straver.

\(^{128}\) Institute for International Economics’ web site: [http://www.iie.com/research/topics/sanctions/myanmar.htm](http://www.iie.com/research/topics/sanctions/myanmar.htm)

Actually, according to the European Commission, its imports from Burma/Myanmar totalled € 489 million (for only € 81 millions of exports) and € 438 millions in 2002. Therefore, the removal of Burmese privileges under the General System of Preferences in 1997, had only a symbolic value, and did not provide a means of pressure on the junta as its prejudicial effect on trade was marginal.

On an operative approach, the embargo on arms and equipments likely to be used for internal repression as very little value. Obviously, without the co-operation of the international community and especially of the main trade partners of Burma/Myanmar, the cessation of member states’ sale of these items to the junta, do not prevent the later from buying elsewhere. Actually, the military “has been greatly assisted by a range of soft loans and others special sales arrangements provided by its new arms suppliers”.

Since the arrival of the SPDC to power in 1988, most of the gains from the economic liberalisation had been put in the modernisation of the Tatmadaw (the armed forces). The main arms supplier of the dictatorship is China. Over the past fourteen years, Poland, former-Yugoslavia, Russia, China, Israel, Pakistan and Singapore have provided training for the Tatmadaw, and have sold arms or civilian equipment with dual-use (such as electronic technology) to the regime. Currently, the regime is on the way to buying a nuclear reactor from Russia.

Therefore, the security or defence-related sanctions of the European Union are critically challenged by the foreign availability of the targeted items. If, alongside the others European measures, they bear the merit of cleansing members states’ conscience, they are definitely insufficient.

As highlighted earlier, no move toward sanctions is envisaged by the main trade partners of Burma/Myanmar, Japan and the ASEAN. However, the harder position of the United States added to the European policy toward Rangoon, might be propitious to a positive Asian diplomatic development. In fact, further to the recent events in Burma/Myanmar, including the detention of Aung San Suu Kyi, the ASEAN members,

132 Information provided by the Euro-Burma office.
under the Indonesian presidency, breached their non-interference dogma, and issued a join statement to the junta in favour of a democratisation process. In addition, they decided to send a mission to Rangoon. However, the Nobel Peace Price’s winner had been detained for three months now, and nothing much has been done, neither from the ASEAN nor from the European Union.

If isolated from the position of rest of the world’s major players, the European Union’s sanctions have little weight. The junta “is locked in an adversarial relationship with Western governments”\footnote{International Crisis Group, Asia Report n°28, 2001, p.ii.}, and its sole interest in the West are commercial, as it is “keenly aware of the importance of Western capital and technology to support military and national development”\footnote{Ibid.}. Indeed, in Burma/Myanmar, the trauma of colonialism and the failure of governments to induce a positive economic and social environment, gave rise to xenophobia and suspicion toward the outside world. More problematically, “the stress caused by external and internal pressures, compounded by policy failures and growing alienation from the world, has pushed many senior officers into a siege mentality bordering paranoia”\footnote{Ibid., p.5. The report gives us as an example the declaration of General Than Shwe in 2001: “Some big countries, who want to dominate and manipulate Myanmar, are trying to destroy the spirit of national solidarity in order to weaken the country and put it under their influence... Taking advantage of their superiority in science and technology, these big nations are trying to dominate the developing nations politically, economically, socially and culturally” (Sen. Gnrl. Than Shwe, quoted in Kyodo News, 30 January 2001).}. The consequent misinterpretation of foreign intentions\footnote{For example, western data on HIV/AIDS are thought by the junta to be insulting and defaming.} and world politics by the military government render diplomatic relations very complex. The problem is actually reinforced by the SPDC determination to stay in power, impervious to international or internal pressure. For the International Crisis Group, “the military regime stands largely alone in the world by choice as much as necessity”\footnote{Ibid.}.

According to the xenophobic bias of the junta, and the inherent stronger influence of the ASEAN over Burma/Myanmar, the European Union should provide a strong and irreproachable support for democratisation, and assist the Southeast Asian organisation in this demarche. If the Asian partners of Burma/Myanmar harder their attitude toward the
junta, and even, threaten it with ASEAN concerted sanctions, such as the suspension of certain economic privileges, there is hope that the military regime will accelerate the democratisation process they claim to follow. This case would be similar to the European Union’s role in backing the democratisation process in former-Yugoslavia.
CONCLUSION

In the light of what have been said, many would have come to think that the European Union policy toward Burma/Myanmar is driven more by a desire to show to the international community that something is being done, than to genuinely address particularity of the Burmese issue.

Indeed, the European Union is trading with many countries with questionable human rights records. Few of them are actually sanctioned by the European Union. This could be explained by their relative geo-strategic importance for the European Union, as it is the case for Pakistan for instance. On the contrary, Burma/Myanmar does not bear any particular value of this kind. Thus, it represents an easy means for the European Union to attest its “pro-active” attitude towards those who violate human rights.

Nonetheless, the Burmese democratic movement is pushing for sanctions. Therefore, their interest could match those of the European Union. However, the sanctions implemented are by far too soft to provide and do not provide the strong incentive needed to persuade the junta to give up power.

The European Union explains its weak attitude by humanitarian considerations: soft sanctions are thought to spare civilians, already affected by the junta’s mismanagement. However, as the NLD and some organisations, such as the Euro-Burma Office, suggest that the people cannot be affected by tougher economic sanctions, such as the import ban proposed by the US senate. Indeed, the Burmese economy chiefly relies on agriculture, with most of the population living on their own crops. Tourism, commercial and banking sectors that would be affected by economic and financial sanctions are all linked to the junta, if not state-owned.

The European Union is well aware of these elements. Therefore, one could argue that the main reason for maintaining soft sanctions is related to trade considerations. We
have showed indeed that imports from Burma/Myanmar to the European Union have sharply increased over the past years.

Economic imperatives are thus the chief justification for the European Union inconsistent policy toward Rangoon. It clarifies the European Union attitude in the Massachusetts case, and the lack of cooperation with influent international actors, especially the United States. This tendency is particularly regrettable, as cooperation is a key requirement of sanctions’ effectiveness.

Dealing with Burma/Myanmar democratic process entails more than lips-services.

“Although most pro-sanction policies have a consistent objective in demanding a move towards democratic change, the exact mechanism for attaining these goals is less clear. The objectives of enhancing human rights and democracy are clearly enunciated in the US and EU’s positions but such abstract goals need to be operationalised. In other words, these positions need to be more oriented towards facilitating a focused objective rather than mere signalling of moral disapproval. By establishing a clear operational goal in place, disincentive polices could articulate specific but feasible objectives or benchmarks that signal the regime a clear message of what not to do, how to behave and which to concede.”\(^{138}\)

Conclusively, the European Union policy is lacking of coherence and clarity, as far as the objectives of promoting democracy and human rights in Burma/Myanmar are concerned. The European Union did not shape its policy relatively to the specificity of the Burmese regime, held by a cohesive military elite\(^ {139}\) who have been carried out a stable dictatorship for more than four decades.

However, if the real aim of the European Union was to signal its own humanistic behaviour, the consequent instrumentalisation of the Burmese issue is a success. The European Union bears a significant potential of action on the junta, through trade and international bodies’ fora. One can therefore hope that the Community is soon going to use its influence with more determination.

\(^{138}\) OO Zaw, 1999, p.15

\(^{139}\) CASE William, Politics in southeast Asia-democracy or less, Richmon: Curzon, 2001.
BIBLIOGRAPHY


ON-LINE ARTICLES AND REPORTS:


http://web.amnesty.org/library/Index/ENGASA160172001?open&of=ENG-MMR

AMNESTY INTERNATIONAL, Official statement, Amnesty International's first visit to Myanmar, 10 February 2003, electronic version (last checked on 28/08/2003):
http://web.amnesty.org/library/Index/ENGASA160052003?open&of=ENG-MMR


**Official Documents**


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140 For more convenience, only the last resolutions or regulations released by the relevant international bodies are listed. Indeed, most of them have adopted at least one resolution on Burma/Myanmar a year, since the mid-1990s, and each new resolution amends or annihilates the precedent one.


EUROPEAN PARLIAMENT, Resolution on the arrest of Aung San Suu Kyi in Burma, Minutes of 5 June 2003.

EUROPEAN PARLIAMENT, Resolution on Burma, Minutes of 13 March 2003.


UNITED NATIONS, Commission on Human Rights resolution 2003/12, Situation of human rights in Myanmar, 16 April 2003.

UNITED NATIONS, General Assembly Resolution 57/231 on the Situation of human rights in Myanmar [on the report of the Third Committee (A/57/556/Add.3)], 28 February 2003.

INTERVIEWS:

Mr. Van AMERSFOORT Philippe, European Commission, DG External relations-Multilateral relations and Human rights Department.

Mr. ZAWMIN Beaudée, Euro-Burma Office.

Mr. STRAVER Alberto, European Commission, DG External relations- Sanctions Department.

Mr. PIT CANNEN Hannu, DG External Trade-General System of Preferences Department.

VIDEO TAPES:

Road to Nowhere, an investigation into forced labour in Burma, 34 min, Images Asia, 1999

Bordening on tyranny, Thailand’s dilemma (The treat of forced reapatriation for Burma’s ethnic refugees in Thailand), 28 min, Options 2000 International, year of release unknown


Total en Birmanie, 37 min, Canal +, 24 May 2000.

Whispering Freedom, MTV, year of release unknown.

WEB SITE CONSULTED FOR DAILY PRESS RELEASE ON BURMA/MYANMAR:

http://www.rebound88.net
ACKNOWLEDGEMENTS

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Moreover, I would like to thanks the people I met during this year who offer me their friendship, support and beyond.

Last but not least, I address my gratefulness to Charles GREGORY for his unhoped patient and understanding attitude.
APPENDIX

APPENDIX 1: MAP OF BURMA/MYANMAR.

APPENDIX 2: ETHNIC COMPOSITION OF BURMA/MYANMAR.

APPENDIX 3: EUROPEAN UNION’S OFFICIAL DOCUMENTS.

- Council of the European Union, Council regulation (EC) No 1081/2000 of 22 May 2000 prohibiting the sale, supply and export to Burma/Myanmar of equipment which might be used for internal repression or terrorism, and freezing the funds of certain persons related to important governmental functions in that country.

APPENDIX 4: UNITED NATIONS’ OFFICIAL DOCUMENTS.

- General Assembly, Resolution 57/231 on the Situation of human rights in Myanmar [on the report of the Third Committee (A/57/556/Add.3)], 28 February 2003.
APPENDIX 1:

MAP OF BURMA/MYANMAR
APPENDIX 2:

COMPOSITION OF THE DIFFERENT ETHNIC GROUPS UNDER THE 8 MAJOR NATIONAL ETHNIC RACES IN MYANMAR.
(A) Kachin comprises 12 different ethnic groups.

1. Kachin
2. Trone
3. Dalaung
4. Jinghpaw
5. Guari
6. Hkahku
7. Duleng
8. Maru (Lawgore)
9. Rawang
10. Lashi (La Chit)
11. Atsi
12. Lisu

(B) Kayah comprises 9 different ethnic groups.

13. Kayah
14. Zayein
15. Ka-Yun (Padaung)
16. Gheko
17. Kebar
18. Bre (Ka-Yaw)
19. Manu Manaw
20. Yin Talai
21. Yin Baw

(C) Kayin comprises 11 different ethnic groups.

22. Kayin
23. Kayinpyu
24. Pa-Le-Chi
25. Mon Kayin (Sarpyu)
26. Sgaw
27. Ta-Lay-Pwa
28. Paku
29. Bwe
30. Monnepwa
31. Monpwa
32. Shu (Pwo)

(D) Chin comprises 53 different ethnic groups.

33. Chin
34. Meithei (Kathe)
35. Saline
36. Ka-Lin-Kaw (Lushay)
37. Khami
38. Awa Khami
39. Khawno
40. Kaungso
41. Kaung Saing Chin
42. Kwelshin
43. Kwangli (Sim)
44. Gunte (Lyente)
45. Gwete
46. Ngorn
47. Zizan
48. Sentang
49. Saing Zan
50. Za-How
51. Zotung
52. Z0-Pe
53. Zo
54. Zahnyet (Zanniet)
55. Tapong
56. Tiddim (Hai-Dim)
57. Tay-Zan
58. Taishon
59. Thado
60. Torr
61. Dim
62. Dai (Yindu)
63. Naga
64. Tanghkul
65. Malin
66. Panun
67. Magun
68. Matu
69. Miram (Mara)
70. Mi-er
71. Mgan
72. Lushei (Lushay)
73. Laymyo
74. Lyente
75. Lawhtu
(76) Lai
(77) Laizao
(78) Wakim (Mro)
(79) Haulngo (Mro)
(80) Anu
(81) Anun
(82) Oo-Pu
(83) Lhinbu
(84) Asho (Plain)
(85) Rongtu

(E) Bamar (Burmans) comprises 9 different ethnic groups.

(86) Bamar
(87) Dawei
(88) Beik
(89) Yaw
(90) Yabein
(91) Kadu
(92) Ganan
(93) Salon
(94) Hpon

(95) Mon

(F) Mon comprises 1 different ethnic groups.

(96) Rakhine
(97) Kamein
(98) Kwe Myi
(99) Daingnet
(100) Maramagyi
(101) Mro
(102) Thet

(G) Rakhine comprises 7 different ethnic groups.

(103) Shan
(104) Yun (Lao)
(105) Kwi

(H) Shan comprises 33 different ethnic groups.
APPENDIX 3

EUROPEAN UNION OFFICIAL DOCUMENTS
COUNCIL COMMON POSITION 2003/297/CFSP
of 28 April 2003
on Burma/Myanmar

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas


(2) In view of the further deterioration in the political situation in Burma/Myanmar, as witnessed by the failure of the military authorities to enter into substantive discussions with the democratic movement concerning a process leading to national reconciliation, respect for human rights and democracy and the continuing serious violations of human rights, including the failure to take action to eradicate the use of forced labour in accordance with the recommendations of the International Labour Organisation’s High-Level Team report of 2001, the Council has deemed it necessary to further expand and strengthen the measures taken under Common Position 96/635/CFSP against the military regime in Burma/Myanmar, those who benefit most from its misrule and those who actively frustrate the process of national reconciliation, respect for human rights and democracy.

(3) Accordingly the scope of the visa ban and assets freeze should be extended to include further members of the military regime, the military and security forces, the military regime’s economic interests and other individuals, groups, undertakings or entities associated with the military regime who formulate, implement or benefit from policies that impede Burma/Myanmar’s transition to democracy and their families and associates.

(4) The Council also deems it necessary to modify the arms embargo to prohibit technical training or assistance.

(5) The Council has decided to suspend the extension of the visa ban and assets freeze, along with the prohibition of technical training or assistance under the arms embargo, up to 29 October 2003 at the latest. Those measures will not be imposed if by that time there is substantive progress towards national reconciliation, the restoration of a democratic order and greater respect for human rights in Burma/Myanmar.

(6) Exemptions should be introduced in the arms embargo in order to allow the export of certain military rated equipment for humanitarian use.

(7) The implementation of the visa ban should be without prejudice to cases where a Member State is bound by an obligation of international law or is host country of the Organisation for Security and Cooperation in Europe (OSCE), or where the Minister and Vice-Minister for Foreign Affairs for Burma/Myanmar visit, with prior notification and agreement of the Council.

(8) The implementation of the ban on high level visits at the level of Political Directors and above should be without prejudice to the Tromsø visit scheduled to take place before 29 October 2003 provided certain conditions are met, and to cases where the European Union decides that the visit is directly in pursuit of national reconciliation, respect for human rights and democracy in Burma/Myanmar.

(9) Action by the Community is needed in order to implement certain measures.

(10) In the light of the above developments, Common Position 96/635/CFSP should be repealed and replaced.

HAS ADOPTED THIS COMMON POSITION:

Article 1

All military personnel attached to the diplomatic representations of Burma/Myanmar in Member States shall be expelled and all military personnel attached to diplomatic representations of the Member States in Burma/Myanmar shall be withdrawn.

Article 9

Unless the Council decides otherwise:
(a) sanctions set out in this Common Position shall, no later than 29 October 2003, be extended to include further members of the military regime, the military and security forces, the military regime’s economic interests and other individuals, groups, undertakings or entities associated with the military regime who formulate, implement or benefit from policies that impede Burma/Myanmar’s transition to democracy, and their families and associates;
(b) the provisions of Article 2(2) shall remain suspended until 29 October 2003.

Article 10

1. The implementation of this Common Position will be monitored by the Council and will be reviewed in the light of developments in Burma/Myanmar. Further measures may need to be considered.
2. In the case of a substantial improvement of the overall political situation in Burma/Myanmar, not only the suspension of the aforementioned measures, but also the gradual resumption of cooperation with Burma/Myanmar will be considered, after assessment of developments by the Council.

Article 11

Common Position 96/635/CFSP is hereby repealed and shall be replaced by this Common Position. Existing references to Common Position 96/635/CFSP shall be read as references to this Common Position.

Article 12

This Common Position shall take effect on the date of its adoption. It shall expire on 29 April 2004.

Article 13

This Common Position shall be published in the Official Journal of the European Union.

Done at Brussels, 28 April 2003.

For the Council
The President
G. PAPANDREOU
ANNEX

List of persons referred to in Article 4

1. State Peace and Development Council (SPDC):
   Chairman, also Prime Minister and Minister of Defence
   (2.2.1933, Kyaukme)
   Vice-Chairman (25.12.1937, Kon Bala)
   Secretary One and Political Advisor (11.10.1939, Kyaukme)
   Chief of Staff and Co-ordinator of Special Operations
   Special Operations 1
   Special Operations 2
   Special Operations 3
   Special Operations 4
   Chief of Air Defence
   Chief of Armed Forces Training
   Adjutant General
   Quartermaster General
   Chief of Military Procurement and Head of UMEH

2. Former members of SLORC:
   Le-Gen Phone Myint (5.1.1931)
   Le-Gen Aung Ye Kyaw (12.12.1930)
   Le-Gen Sein Aung (11.11.1931)
   Le-Gen Chu Swe (8.1.1932)
   Le-Gen Mya Thin (31.12.1931)
   Le-Gen Kyaw Ba (7.6.1932)
   Le-Gen Tin Kyi (1.5.1938)
   Le-Gen Myo Nyunt (3.9.1930)
   Le-Gen Maung Thin (23.8.1932)
   Le-Gen Aye Thoht (13.3.1930)
   Le-Gen Kyaw Min (22.6.1932, Hanzada)
   Le-Gen Maung Hla
   Maj-Gen Soe Myint
   Le-Gen Myint Aung

3. Former members of SPDC:
   Commodore Nyunt Than
   Maj-Gen Kyaw Than

4. Regional commanders:
   Maj-Gen Myint Swe
   Brig-Gen Ye Myint
   Brig-Gen Maung Oo
   Brig-Gen Maung Maung Swe
   Brig-Gen Khin Maung Myint
   Brig-Gen Khin Zaw
   Brig-Gen Thar Aye
   Brig-Gen Hla Hla Oo
   Brig-Gen Thura Myint Aung

Yangon Command
Central Command
Western Command
Northern Command
Eastern Command
Triangle Command
Coastal Command
South Western Command
South Eastern Command
Brg-Gen Myint Hlaing  
Brg-Gen Soe Naing  
Brg-Gen Aung Min  

5. Deputy regional commanders

Brg-Gen Nay Win  
Brg-Gen Tin Lu  
Col Myint Aung  
Brg-Gen San Thein  
Brg-Gen San Tun  
Brg-Gen Soe Myint  
Brg-Gen Myo Hla  
Brg-Gen Tin Swe  
Brg-Gen Aung Thein  
Brg-Gen Thura Maung Ni  
Brg-Gen Hsan Halin  
Col Myint Aung  

North Eastern Command  
North Western Command  
Southern Command  
Enteral Command  
Eastern Command  
Northern Command  
North Western Command, formerly Deputy Regional Commander of Northern Command  
South Eastern Command  
South Western Command  
Western Command  
Southern Command  
Rangoon Command  
Triangle Command  

6. Other state/divisional commanders

Col Thein Kyawng  
Col Aung Thwin  
Col Saw Khin Soe  
Col Kyaw Win  

Magwe Division  
Chin State  
Karen State  
Kayah State  

7. Ministers

Maj-Gen Nyunt Tin  
U Aung Thaung  
Maj-Gen Saw Irwin  
Maj-Gen Hla Myint Swe  
U Win Aung  
U Soe Tha  
Dr Gen Tin Ngwe  
U Than Shwe  
U Tin Win  
U Pan Aung  
Brg-Gen Luu Thil  
U Than Aung  
Maj-Gen Kyi Sein  
Brg-Gen Pyi Soe  
Maj-Gen Thein Zaw  
U Khin Maung Thin  
U Aung Khin  
Maj-Gen Saw Tun  
U Thaung  

Minister for Agriculture and Irrigation  
Minister for Industry  
Minister for Industry II (1939)  
Minister for Transport  
Minister for Foreign Affairs (28.2.1944, Dawei)  
Minister of National Planning and Economic Development  
Minister for Cooperatives  
Minister in the Prime Minister’s Office  
Minister of Labour and former Ambassador to the United States of America  
Minister of Rail Transportation  
Minister of Energy  
Minister for Education  
Minister of Health  
Minister of Commerce  
Minister of Hotels and Tourism and also Minister of Telecommunications, Posts and Telegraphs  
Minister of Finance and Revenue (11.11.1914, Mandalay)  
Minister of Religious Affairs  
Minister of Construction  
Minister of Science and Technology  

Maj-Gen Kyi Aung  
Minister of Culture

Maj-Gen Sein Htoo  
Minister of Immigration and Manpower and also Minister of Social Welfare, Relief and Rehabilitation

Brig-Gen Kyaw Htoo  
Minister of Information, formerly Deputy Minister of Commerce

Col Thein Nyunt  
Minister for Progress of Border Areas, National Races and Development Affairs

Maj-Gen Tin Htoo  
Minister of Electric Power

Brig-Gen Thura Aye Myint  
Minister of Sports

U Aung Phyo  
Minister of Forestry

Col Tin Maung  
Minister of Home Affairs

Brig-Gen Ohn Myint  
Minister of Mines

Brig-Gen Maung Maung Thein  
Ministry of Livestock and Fisheries

Lt-Gen Min Thein  
Minister at the Office of the Chairman of the SPDC — 28.2.1995, Maymyo

Brig-Gen David Abel  
Minister at the Office of Chairman of SPDC — 28.2.1995, Maymyo

8. Other tourism-related appointments

Brig-Gen Aye Myint Kyu  
Deputy Minister of Hotels and Tourism

U Aung Myint  
Head of Office of Minister of Hotels and Tourism

Lt-Col Khin Maung Latt  
Director-General, Ministry of Hotels and Tourism

U Myo Inwin  
Deputy Director-General, Ministry of Hotels and Tourism

9. Other senior Ministry of Defense officials

Vice Admiral Kyi Min  
C-in-C Navy, Wife Daw Aye Aye

Brig-Gen Myat Hein  
C-in-C Air Force

Col Khin Aung Myint  
Director of Public Relations and Psychological Warfare

Brig-Gen Win Hlaing  
Managing Director, Directorate of Defence Procurement

Col Thein Tun  
Director of Signals

Col Hla Tun  
Director of Ordnance Services

Col Thein Hla  
Director of Supplies and Transport

Brig-Gen Maung Nyo  
Vice Adjutant General

Brig-Gen Kyaw Win  
Vice Quartermaster General

Maj-Gen Tin Ngwe  
Military Appointment General

Col Khin Maung San  
Military Appointment Colonel

Maj-Gen Thein Soe  
Judge Advocate General

Brig-Gen Saw Hla  
Provost Marshal

Rear Admiral Soe Thant  
Chief of Staff (Navy)

Col Myint Swe  
Chief of Staff (Air)

Lt-Col Zin Aye  
Colonel, General Air Staff

Capt Kyaw Naing Myint  
Directorate of Defence Procurement, Ministry of Defence

Brig-Gen Khi Yi  
Director-General of Myanmar (Burmese) Police force (formerly commander of MORA 21 based at Mong Min)

10. Members of the office of the chief of military intelligence (OCMI):

Maj-Gen Kyaw Win

Brig-Gen Myint Zaw  
Division Head

Brig-Gen Hla Aung

Brig-Gen Kyaw Han  
Division Head
Col San Twint
Major Shwe Moe

1st Col Khin Maung Thein 11.11.1934, Mandalay
Brig-Gen Thein Swe
Brig-Gen Kyaw Thein
Brig-Gen Si Thu
Lt-Col Than Aye

Col Tun Tun  Division Head

Lt-Col Maung Hnig
Lt-Col Hla Min

Commander Ngwe Tun  Chief Foreign Liaison, OCMIL
Maj Myo Khine  Deputy Chief Foreign Liaison, OCMIL
Capt Ko Ko Oo  Foreign Liaison Officer, OCMIL
LIEut Hnin Aung Kyaw  Foreign Liaison Officer, OCMIL
Capt Soe Than  Foreign Liaison Officer, OCMIL

11. Former members of government:

Lt-Gen Thein Win  Former Minister of Transportation (1937)
Brig-Gen Myo Than  Former Minister in the Prime Minister's Office
U Kyun Maung Yin  Former Minister in the Deputy Prime Miniser's Office
(U.A1931)
U Ohn Graw  Former Minister for Foreign Affairs (3.3.1932)
Maj-Gen Kyaw Than  Former Minister of Commerce
Brig-Gen Sein Win  Former Minister of Sports
Col Thwin Win  Former Area Regional Commander
Col Aye Myn int Kyaw  Former Deputy Regional Commander
Brig-Gen Pryay Sone  Former Regional Commander

12. Former members of government added from 2000:

Vice Admiral Maung Maung Khin  Deputy Prime Minister (23.11.1929)
Lt-Gen Tin Tun  Deputy Prime Minister (23.11.1930)
Lt-Gen Win Myint  Formerly Secretary Three of SPDC
Lt-Gen Tin Hla  Former Deputy Prime Minister and Minister for Military Affairs and Quartermaster General

U Aung San  Former Minister for Cooperatives
Vice Admiral Tin Aye  Former Minister of Labour
Maj-Gen Saw Uwin  Former Minister of Hotels and Tourism (1939)
Brig-Gen Win Tin  Former Minister of Telecommunications, Posts and Telegraphs
U Win Sein  Former Minister of Culture (10.10.1940, Kyaunkkyi)
Maj-Gen Lun Maung  Former Minister in the Prime Minister's Office
Brig-Gen Kyaw Saw  Former Minister of Information
Brig-Gen Maung Maung  Former Deputy Regional Commander Southern Command, and Former Minister at the Office of the Chairman of the SPDC

Then Saw  Minister of Hotels and Tourism (1939)
Brig Gen Chit Than  Former Regional Commander, Triangle Command
Brig Gen Aye Kyway  Former Regional Commander, Council Command
COUNCIL REGULATION (EC) No 1081/2000
of 22 May 2000
prohibiting the sale, supply and export to Burma/Myanmar of equipment which might be used for internal repression or terrorism, and freezing the funds of certain persons related to important governmental functions in that country

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Common Position 2000/346/CEPT of 26 April 2000 extending and amending Common Position 96/635/CEPT on Burma/Myanmar (1),

Having regard to the proposal from the Commission,

Whereas:

(1) In view of continued severe and systematic violations of human rights by the Burmese authorities, and in particular continuing and intensified repression of civil and political rights, and the failure of those authorities to take steps towards democracy and reconciliation, Common Position 2000/346/CEPT provides that the restrictive measures applicable to Burma/Myanmar, as laid down in Common Position 96/635/CEPT (2) and 98/612/CEPT (3), should be expanded by means of inter alia, a freezing of the funds of senior members of the State Peace and Development Council, Burmese authorities in the tourism sector, senior members of the military, the Government or the security forces who formulate, implement or benefit from policies that impede Burma/Myanmar's transition to democracy, and their families, and by a prohibition of sales, supplies and exports of equipment which might be used for internal repression or terrorism.

(2) These measures fall within the scope of the Treaty.

(3) Therefore, and with a view to avoiding distortion of competition, Community legislation is necessary for the implementation of the said measures as far as the territory of the Community is concerned. Such territory is deemed to encompass, for the purposes of this Regulation, all the territories of the Member States to which the Treaty is applicable, under the conditions laid down in that Treaty.

(4) The competent authorities of the Member States should, where necessary, be empowered to ensure compliance with the provisions of this Regulation.

(5) There is a need for the Commission and the Member States to inform each other of the measures taken under this Regulation and of other relevant information at

HAS ADOPTED THIS REGULATION:

Article 1

It shall be prohibited, knowingly and intentionally, to sell, supply, export or ship, directly or indirectly, equipment listed in Annex I, whether or not originating in the Community, to any person or body in Burma/Myanmar or to any person or body for the purpose of any business carried on in, or operated from, the territory of Burma/Myanmar.

Article 2

1. All funds held outside the territory of Burma/Myanmar belonging to the senior members of the State Peace and Development Council, the Burmese authorities in the tourism sector, the senior members of the military, the Government or the security forces who formulate, implement or benefit from policies that impede Burma/Myanmar's transition to democracy, and their families, whose names are listed in Annex II, shall be frozen.

2. No funds shall be made available, directly or indirectly, to or for the benefit of the persons referred to in paragraph 1.

3. For the purpose of this Regulation:

— funds shall mean financial assets and economic benefits of any kind, including but not necessarily limited to, cash, cheques, drafts, money orders and other payment instruments, deposits with financial institutions or other entities, balances on accounts, debts and debt obligations, publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, depositary receipts, interest, dividends or other income or value accruing from or generated by assets; credit, rights of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources; and any other instrument or export-financing:

— freezing of funds shall mean: preventing any move, transfer, alteration, use or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would make possible the use of the funds, including portfolio management, except that any interest or income arising or any capital automatically repayable on maturity of any funds shall be paid into and held in a frozen account.

Article 3
Without prejudice to the Community rules concerning confidentiality and to the provisions of Article 284 of the Treaty, the competent authorities of the Member States shall have the power to require banks, other financial institutions, insurance companies, and other bodies or persons to provide all relevant information necessary for ensuring compliance with this Regulation.

Article 4
The Commission shall be empowered:
— to amend Annex II, taking into account decisions updating the Annex of Common Position 2000/146/CFSP,
— on the basis of information supplied by Member States, to amend data on competent authorities of the Member States listed in Annex III.

Article 5
The participation, knowingly and intentionally, in related activities the object or effect of which is, directly or indirectly, to promote the transactions or activities referred to in Article 1 or to circumvent the provisions of this Regulation shall be prohibited.

Article 6
The Commission and the Member States shall inform each other of the measures taken under this Regulation and supply each other with relevant information at their disposal in connection with this Regulation, in particular information received in accordance with Article 3, information in respect of violation and enforcement problems and judgments handed down by national courts.

Article 7
Each Member State shall determine the sanctions to be imposed where the provisions of this Regulation are infringed. Such sanctions shall be effective, proportionate and dissuasive.

Article 8
This Regulation shall apply:
— within the territory of the Community including its air space,
— on board any aircraft or any vessel under the jurisdiction of a Member State,
— to any person elsewhere who is a national of a Member State, and
— to any body which is incorporated or constituted under the law of a Member State.

Article 9
This Regulation shall enter into force on the day of its publication in the Official Journal of the European Communities.

This Regulation shall be reviewed by 29 October 2000.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 May 2000.

For the Council
The President
J. GAMA
ANNEX I

Equipment for internal repression or terrorism, envisaged by Article 1

The following list does not include arms which have been specially designed or modified for military use and are covered by the arms embargo confirmed by Common Position 90/635/CFSP.

Helicopters providing ballistic protection, anti-riot helmets, anti-riot shields and ballistic shields and specially designed components thereof.

Specially designed fingerprint equipment.

Power controlled searchlights.

Construction equipment provided with ballistic protection.

Handing knives.

Specially designed production equipment to make shotguns.

Ammunition hand-loading equipment.

Communications intercept devices.

Solid-state optical detectors.

Image-intensifier tubes.

Telescopic weapon sights.

Smooth-bore weapons and related ammunition, other than those specially designed for military use, and specially designed components thereof except:

1. signal pistols;

2. air- or cartridge-powered guns designed as industrial tools or humane animal stunners.

Simulators for training in the use of firearms and specially designed or modified components and accessories thereof.

Bombs and grenades, other than those specially designed for military use, and specially designed components thereof.

Body armour, other than that manufactured to military standards or specifications, and specially designed components thereof.

All-wheel-drive utility vehicles capable of off-road use that have been manufactured or fitted with ballistic protection, and profited armour for such vehicles.

Water cannon and specially designed or modified components thereof.

Vehicles equipped with water cannon.

Vehicles specially designed or modified to be electrified to repel boarders and components thereof specially designed or modified for that purpose.

Acoustic devices represented by the manufacturer or supplier as suitable for riot-control purposes, and specially designed components thereof.

Leg-irons, gang-chains, shackles and electric-shock belt, specially designed for restraining human beings except:

— handcuffs for which the maximum overall dimension including chain does not exceed 240 mm when locked.

Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an incapacitating substance (such as tear gas or pepper spray), and specially designed components thereof.

Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an electric shock (including electric-shock batons, electric shock shields, stun guns and electric shock dart guns (tasers)) and components thereof specially designed or modified for that purpose.

Electronic equipment capable of detecting concealed explosives and specially designed components thereof except:

— TV or X-ray inspection equipment.

Electronic jamming equipment specially designed to prevent the detonation by radio remote control of improvised devices and specially designed components thereof.
The present council regulation had been amended by Council regulation 1211/2003 on 7 July 2003, and by the Commission Regulation of 20 June 2003, which provided an undated list of the officials concerned by the sanctions stated.
COUNCIL REGULATION (EC) No 1211/2003
of 7 July 2003

amending Regulation (EC) No 1081/2000 prohibiting the sale, supply and export to Burma/Myanmar of equipment which might be used for internal repression or terrorism, and freezing the funds of certain persons related to important governmental functions in that country

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 301 thereof,


Having regard to the proposal from the Commission,

Whereas:

(1) The Council has expressed its grave concern over the deteriorating overall situation in Burma/Myanmar, in particular the arrest of Aung San Suu Kyi and other members of the National League for Democracy and the closure of NLD offices.

(2) In view of this, Decision 2003/461/CFSP provides, inter alia, for enforcement of the ban on technical training or assistance related to arms and related material.

(3) This ban on technical advice, assistance or training related to arms and related material falls under the scope of the Treaty. Therefore, with a view to avoiding distortion of competition, Community legislation is necessary as far as the territory of the Community is concerned. For the purposes of this Regulation, such territory is deemed to encompass all the territories of the Member States to which the Treaty is applicable, under the conditions laid down in that Treaty.

(4) This ban should therefore be added to the measures imposed by Regulation (EC) No 1081/2000 (3),

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1081/2000 is hereby amended as follows:

1. the following Article shall be inserted:

‘Article 1a.

1. Without prejudice to the powers of the Member States in the exercise of their public authority, providing Burma/Myanmar with technical training or assistance related to the supply, manufacture, maintenance or use of arms and related material of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, shall be prohibited.

2. Paragraph 1 shall not apply to technical assistance or training related to non-lethal military equipment intended solely for humanitarian or protective uses.

2. Article 5 shall be replaced by the following:

‘Article 5

The participation, knowingly and intentionally, in related activities, the object or effect of which is, directly or indirectly, to promote the transactions or activities referred to in Articles 1 and 1a or to circumvent the provisions of this Regulation, shall be prohibited.’

Article 2

This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 7 July 2003.

For the Council
The President
F. FRATTINI

COMMISSION REGULATION (EC) No 1070/2003
of 20 June 2003

amending, for the third time, Council Regulation (EC) No 1081/2000 prohibiting the sale, supply and export to Burma/Myanmar of equipment which might be used for internal repression or terrorism, and freezing the funds of certain persons related to important governmental functions in that country

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1081/2000 of 22 May 2000 prohibiting the sale, supply and export to Burma/Myanmar of equipment which might be used for internal repression or terrorism, and freezing the funds of certain persons related to important governmental functions in that country (1), as last amended by Commission Regulation (EC) No 744/2003 (2), and in particular Article 4, first indent, thereof,

Whereas:

(1) Annex II to Regulation (EC) No 1081/2000 lists the persons covered by the freezing of funds under that Regulation.


(4) In order to ensure that the measures provided for in this Regulation are effective, this Regulation must enter into force immediately.

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 1081/2000 is replaced by the text in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.


For the Commission

Christopher PATTERN
Member of the Commission

(5) See page 116 of this Official Journal.
ANNEX

List of persons referred to in Article 1

A. State Peace and Development Council (SPDC)

1. Senior General Than Shwe  
   President (2.2.1933, Kyaukse)
2. Daw Kyai Ng Kyai  
   Spouse of Senior General Than Shwe
3. Daw Thandar Shwe  
   Family member of Senior General Than Shwe
4. Daw Khin Kyone Shwe  
   Family member of Senior General Than Shwe
5. Daw Aye Aye Tha Shwe  
   Family member of Senior General Than Shwe
6. Ma Thadat Htun  
   Family member of Senior General Than Shwe
7. Vice-Senior General Maung Aye  
   Vice-President (25.12.1937, Kyaukse)
8. Daw Mya Mya San  
   Spouse of Vice-Senior General Maung Aye
9. Nandar Aye  
   Family member of Vice-Senior General Maung Aye
10. General Khin Nyunt  
    Secretary 1 (11.10.1939, Kyaukse)
11. Dr. Khin Win Shwe  
    Spouse of General Khin Nyunt
12. U Ye Naing Win  
    Family member of General Khin Nyunt
13. Lt-Gen Zaw Naing Oo  
    Family member of General Khin Nyunt
14. Lt-Gen. Soe Win  
    Secretary 2
15. Daw Than Than Nwe  
    Spouse of Lt-Gen. Soe Win
16. Lt-Gen. Thura Shwe Mann  
    Chief of Staff, Coordinator of Special Operations
17. Daw Khin Lay Tha  
    Spouse of Lt-Gen. Thura Shwe Mann
18. Lt-Gen. Thein Sein  
    Adjutant-General
19. Daw Khin Khin Win  
    Spouse of Lt-Gen. Thein Sein
20. Lt-Gen. Thula Thura Tin Aung Myint Oo  
    Quartermaster-General
21. Daw Khin Saw Hnin  
    Spouse of Lt-Gen. Thula Thura Tin Aung Myint Oo
22. Lt-Gen. Kyaw Win  
    Chief of Armed Forces Training
23. Daw San San Yee  
    Spouse of Lt-Gen. Kyaw Win
24. Lt-Gen. Tin Aye  
    Chief of Military Ordinance, Head of UMEH
25. Daw Kyi Kyi Ohn  
    Spouse of Lt-Gen. Tin Aye
26. Lt-Gen. Ye Myint  
    Chief of Bureau of Special Operations 1 (Kachin, Chin, Sagaing, Magwe, Mandalay)
27. Dr. Tin Lay Myint  
    Spouse of Lt-Gen. Ye Myint
28. Lt-Gen. Aung Howe  
    Chief of Bureau of Special Operations 2 (Kayah, Shan)
29. Daw Khin Hnin Wai  
    Spouse of Lt-Gen. Aung Howe
30. Lt-Gen. Khin Maung Than  
    Chief of Bureau of Special Operations 3 (Pegu, Rangoon, Irrawaddy, Arakan)
31. Daw Natlar Tin  
    Spouse of Lt-Gen. Khin Maung Than
32. Lt-Gen. Maung Bo  
    Chief of Bureau of Special Operations 4 (Karen, Mon, Tenasserim)
33. Daw Khin Lay Myint  
    Spouse of Lt-Gen. Maung Bo

B. Former members of SLORC and SPDC

1. Lt-Gen. Phone Myint (5.1.1931)  
2. Lt-Gen. Aung Ye Kyaw (12.12.1930)  
3. Lt-Gen. Chu Swe (18.1.1932)  
5. Lt-Gen. Kyaw Ba (7-6-1932)
6. Lt-Gen. Tun Kyi (1-5-1938)
7. Lt-Gen. Myo Nyunt (30-9-1930)
8. Lt-Gen. Maung Thin (25-8-1932)
10. Lt-Gen. Kyaw Min (22-6-1932, Hmazada)  
11. Lt-Gen. Maung Hla
12. Maj-Gen. Soe Myint
13. Commodore Nyunt Thein

C. Regional Commanders:

1. Maj-Gen. Myint Swe  
   Rangoon
2. Dow Khin Then Htay  
   Spouse of Maj-Gen. Myint Swe
   Central — Mandalay Division
4. Dow Myint Nge  
   Spouse of Maj-Gen. Ye Myint
5. Maj-Gen. Soe Naing  
   North Western — Sagaing Division
6. Dow Ta Ta Win  
   Spouse of Maj-Gen. Soe Naing
7. Maj-Gen. Maung Maung Swe  
   North — Kachin State
8. Dow Ta Ta Nwe  
   Spouse of Maj-Gen. Maung Maung Swe
   North Eastern — Shan State (North)
10. Dow Khin Than Sin  
    Spouse of Maj-Gen. Myint Hlaing
    Triangle — Shan State (East)
12. Dow Khin Pyone Win  
    Spouse of Maj-Gen. Khan Zaw
    Eastern — Shan State (South)
14. Dow Win Win Nu  
    Spouse of Maj-Gen. Khin Maung Myint
15. Maj-Gen. Thura Myint Aung  
    South Eastern — Mon State
16. Dow Than Than Nwe  
    Spouse of Maj-Gen. Thura Myint Aung
17. Maj-Gen. Thar Aye  
    Coastal — Tenasserim Division
18. Dow Wai Win Khine  
    Spouse of Maj-Gen. Thar Aye
    South — Pegu Division
20. Dow Sai Nwar Khun Sum  
    Spouse of Brig-Gen. Ko Ko
21. Maj-Gen. Htay Oo  
    South Western — Irrawaddy Division
22. Dow Yi Ni Win  
    Spouse of Maj-Gen. Htay Oo
23. Maj-Gen. Maung Oo  
    Western — Arakan State
24. Dr Dow Nyunt Nyunt Oo  
    Spouse of Maj-Gen. Maung Oo

D. Deputy Regional Commanders:

1. Brig-Gen. Hsan Htint  
   Rangoon
2. Brig-Gen. Nay Win  
   Central
3. Brig-Gen. Soe Myint  
   North-Western Command
4. Brig-Gen. San Tun  
   Northern
5. Brig-Gen. Hla Myint  
   North-Eastern
6. Col Myint Aung  
   Eastern
7. Brig-Gen. Myo Hla  
   South-Eastern
8. Brig-Gen. Tin Latt  
   Coastal
   Southern
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<tr>
<th></th>
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<th>Title/Position</th>
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<tr>
<td>10</td>
<td>Brig-Gen. Tin Swae</td>
<td>South-Western</td>
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<tr>
<td>11</td>
<td>Brig-Gen. Phone Swae</td>
<td>Western</td>
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E. Other State/Divisional Commanders

<table>
<thead>
<tr>
<th></th>
<th>Name</th>
<th>Division/State</th>
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<tbody>
<tr>
<td>1</td>
<td>Col Thein Kyaw</td>
<td>Magwe Division</td>
</tr>
<tr>
<td>2</td>
<td>Col Aung Thway</td>
<td>Chin State</td>
</tr>
<tr>
<td>3</td>
<td>Col Saw Khan Soe</td>
<td>Karen State</td>
</tr>
<tr>
<td>4</td>
<td>Col Thein Swe</td>
<td>Kayah State</td>
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</table>

F. Ministers

<table>
<thead>
<tr>
<th></th>
<th>Name</th>
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<tbody>
<tr>
<td>1</td>
<td>U Thaung Shwe</td>
<td>PM's Office</td>
</tr>
<tr>
<td>2</td>
<td>U Pan Aung</td>
<td>PM's Office</td>
</tr>
<tr>
<td>3</td>
<td>Daw Nyunt Nyunt Lwin</td>
<td>Spouse of U Pan Aung</td>
</tr>
<tr>
<td>4</td>
<td>Lt-Gen. Min Thein</td>
<td>Office of the Chairman of SPDC</td>
</tr>
<tr>
<td>5</td>
<td>Daw Khin Than Myint</td>
<td>Spouse of Lt-Gen. Min Thein</td>
</tr>
<tr>
<td>6</td>
<td>Brig-Gen. D O Abyd</td>
<td>Office of the Chairman of SPDC</td>
</tr>
<tr>
<td>7</td>
<td>Daw Khin Thein Mu</td>
<td>Spouse of Brig-Gen. D O Abyd</td>
</tr>
<tr>
<td>8</td>
<td>Maj-Gen. Nyunt Tan</td>
<td>Agriculture and Irrigation</td>
</tr>
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<td>9</td>
<td>Daw Khin Myo Oo</td>
<td>Spouse of Maj-Gen. Nyunt Tan</td>
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<td>10</td>
<td>Brig-Gen. Pyi Sone</td>
<td>Commerce</td>
</tr>
<tr>
<td>11</td>
<td>Daw Aye Pyai Wai Khan</td>
<td>Spouse of Brig-Gen. Pyi Sone</td>
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<td>12</td>
<td>Kalyar Pyai Wai Shan</td>
<td>Family member of Brig-Gen. Pyi Sone</td>
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<td>13</td>
<td>Pan Thara Pyai Shan</td>
<td>Family member of Brig-Gen. Pyi Sone</td>
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<td>14</td>
<td>Maj-Gen. Saw Tan</td>
<td>Construction</td>
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<td>15</td>
<td>Daw Myint Myint Ko</td>
<td>Spouse of Maj-Gen. Saw Tan</td>
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<td>16</td>
<td>Lt-Gen. Tin Ngwe</td>
<td>Cooperatives</td>
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<td>17</td>
<td>Daw Khin Hla</td>
<td>Spouse of Lt-Gen. Tin Ngwe</td>
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<td>Maj-Gen. Kyi Aung</td>
<td>Culture</td>
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<td>Daw Khin Khin Lay</td>
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<td>21</td>
<td>Daw Win Shwe</td>
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<tr>
<td>22</td>
<td>Maj-Gen. Tin Hau</td>
<td>Electric Power</td>
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<td>23</td>
<td>Daw Tin Tan Nyunt</td>
<td>Spouse of Maj-Gen. Tin Hau</td>
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<td>24</td>
<td>Brig-Gen. Lun Thi</td>
<td>Energy</td>
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<td>25</td>
<td>Daw Khin Min Aye</td>
<td>Spouse of Brig-Gen. Lun Thi</td>
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<td>26</td>
<td>Daw Mya Sein Aye</td>
<td>Family member of Brig-Gen. Lun Thi</td>
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<tr>
<td>27</td>
<td>Maj-Gen. Hla Tun</td>
<td>Finance and Revenue</td>
</tr>
<tr>
<td>28</td>
<td>U Win Aung</td>
<td>Foreign Affairs (28.2.1944, Dawei)</td>
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<tr>
<td>29</td>
<td>Daw San Yon</td>
<td>Spouse of U Win Aung</td>
</tr>
<tr>
<td>30</td>
<td>U Thaung Su Nyunt</td>
<td>Family member of U Win Aung</td>
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<td>U Aung Phone</td>
<td>Forestry</td>
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<td>32</td>
<td>Daw Khin Sin Aye</td>
<td>Spouse of U Aung Phone</td>
</tr>
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<td>33</td>
<td>U Sitt Thwe Aung</td>
<td>Family member of U Aung Phone</td>
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<td>34</td>
<td>U Sitt Thlaung Aung</td>
<td>Family member of U Aung Phone</td>
</tr>
<tr>
<td>35</td>
<td>Prof, Dr. Kyaw Myint</td>
<td>Health</td>
</tr>
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<td>36</td>
<td>Daw Nilar Thaw</td>
<td>Spouse of Prof, Dr Kyaw Myint</td>
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<tr>
<td>37</td>
<td>Col Tin Hlaing</td>
<td>Home Affairs</td>
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38. Daw Khin Hla Hla  
   Spouse of Col Tin Hlaung
   Immigration and Population, Social Welfare, Relief and Resettlement
40. Daw Khin Aye  
   Spouse of Maj-Gen. Sein Hwa
41. U Aung Thaung  
   Industry I
42. Daw Khin Khin Yi  
   Spouse of U Aung Thaung
43. Maj-Gen. Saw Lwin  
   Industry II (1939)
44. Daw Moe Moe Myint  
   Spouse of Maj-Gen. Saw Lwin
45. Brig-Gen. Kyaw Htun  
   Information
46. Daw Kyi Kyi Win  
   Spouse of Brig-Gen. Kyaw Htun
47. U Tin Winta  
   Labour
48. Daw Khin Nu  
   Spouse of U Tin Winta
49. Daw May Khin Tin Win Nu  
   Family member of U Tin Winta
50. Brig-Gen. Maung Maung Thein  
   Livestock and Fisheries
51. Daw Myint Myint Aye  
   Spouse of Brig-Gen. Maung Maung Thein
52. Brig-Gen. Ohn Myint  
   Mines
53. Daw San San  
   Spouse of Brig-Gen. Ohn Myint
54. Maung Thein Ntchng Oo  
   Family member of Brig-Gen. Ohn Myint
55. Maung Min Theint Oo  
   Family member of Brig-Gen. Ohn Myint
56. U Soe Tha  
   National Planning and Economic Development
57. Daw Kyu Kyu Win  
   Spouse of U Soe Tha
58. Col Thein Nyunt  
   Progress of border areas and national races and development affairs
59. Daw Kyin Khine  
   Spouse of Col Thein Nyunt
60. Maj-Gen. Aung Min  
   Rail Transportation
61. Daw Wai Wai Thar  
   Spouse of Maj-Gen. Aung Min
62. U Aung Khin  
   Religious Affairs
63. Daw Yin Yin Nyunt  
   Spouse of U Aung Khin
64. U Thaung  
   Science and Technology
65. Daw May Kyi Sein  
   Spouse of U Thaung
66. Brig-Gen. Thura Aye Myint  
   Sports
67. Daw Aye Aye  
   Spouse of Brig-Gen. Thura Aye Myint
68. Brig-Gen. Thein Zaw  
   Telecommunications, Post & Telegraphs, Hotels and Tourism
69. Daw Ma Ma Win  
   Spouse of Brig-Gen. Thein Zaw
70. Maj-Gen. Hla Myint Swe  
   Transports
71. Daw San San Myint  
   Spouse of Maj-Gen. Hla Myint Swe
72. Brig-Gen. Thein Zaw  
   Tourism

G. Deputy Ministers

1. U Hla Maung  
   Office of the Chairman of SPDC
2. Brig-Gen. Khin Maung  
   Agriculture and Irrigation
3. U Ohn Myint  
   Agriculture and Irrigation
4. Brig-Gen. Myint Thein  
   Construction
5. U Soe Nyan  
   Culture
6. U Myo Nyunt  
   Education
7. Brig-Gen. Soe Win Maung  
   Education
8. U Myo Myint  
   Electric Power
9. U Tin Tun  
   Energy
10. Brig-Gen. Thein Aung
11. U Khin Maung Win
12. Brig-Gen. Than Tun
13. Col Thaik Tun
14. Prof. Dr. Mya Oo
15. Brig-Gen. Thura Myint Maung
17. Daw Khin Swe Myint
18. U Mung Aung
20. Brig-Gen. Kyaw Win
22. Lt-Col Khin Maung Kyaw
23. Brig-Gen. Aung Thein
24. Brig-Gen. Win Sein
25. U Aung Thein
26. U Myint Thein
27. U Kyaw Tin
28. Brig-Gen. Than Tun
29. Thura U Thaung Lwin
30. Brig-Gen. Thura Aung Ko
31. U Nyi Hla Nge
32. Dr Chan Nyein
33. U Hlaing Win
34. Brig-Gen. Maung Maung
35. Brig-Gen. Kyaw Myint
36. U Pe Than

H. Former Members of Government
1. U Khin Maung Thein
2. Daw Su Su Thein
4. Daw Yin Yin Myint
5. U Nyunt Swe

I. Other current related appointments
1. Lt. Col (retired) Khin Maung Latt
2. Capt (retired) Hlay Aung
3. U Tin Maung Swe
4. U Khin Maung Soe
5. U Tin Swe

J. Ministry of Defence Senior Officials
1. Vice-Admiral Kyi Min
2. Commodore Soe Thein
3. Brig-Gen. Myat Hein
5. Brig-Gen. Soe Maung  Judge Advocate General
8. Col Sein Lin  Director of Ordnance
10. Col Than Sein  CO Defence Services Hospital
11. Brig-Gen. Win Hlaing  Director of Procurement
13. Brig-Gen. Than Maung  Director of People’s Militia and Frontier Forces
14. Brig-Gen. Aung Myint  Director of Signals
15. Brig-Gen. Than Htay  Director of Supply & Transport
17. Brig-Gen. Hsan Htaung  Military Appointments General
18. Vice-Adm. Kyi Min  Commander-in-Chief (Marine)
19. Daw Aye Aye  Spouse of Vice-Adm. Kyi Min
20. Brig-Gen. Myat Hein  Commander-in-Chief (Air)

K. Members of the Office of the Chief of Military Intelligence (OCMI)

1. Brig-Gen. Myint Aung Zaw  Administration
2. Brig-Gen. Hla Aung  Training
3. Brig-Gen. Thein Soe  International Relations and Foreign Relations
4. Brig-Gen. Kyaw Han  Science and Technology
5. Brig-Gen. Than Tun  Politics and Counter Intelligence
6. Col Hla Min  Deputy
7. Col Tin Hla  Deputy
8. Brig-Gen. Myint Zaw  Border Security and Intelligence
10. Col San Pyin  Deputy

L. Military officers running prisons and police

Col Ba Myint  Director-General of the Prisons Department (Ministry of Home Affairs)

M. United Solidarity and Development Association (USDA)

1. U Ko Lay  Mayor and Chairman of the Yangon City Development Committee (Secretary)
2. Daw Khin Khin  Spouse of U Ko Lay
3. San Win  Family member of U Ko Lay
4. Than Han  Family member of U Ko Lay
5. Khin Thida  Family member of U Ko Lay
6. U Thein Sein  Deputy Minister for Information (CEC Member)
7. Daw Khin Khin Wai  Spouse of U Thein Sein
8. Col Thaik Tun  Deputy Minister for Forestry (CEC Member)
9. Daw Nwe Nwe Kyi  Spouse of Col Thaik Tun
16 June 2003

**BURMA/MYANMAR - Council Conclusions**

"1. The Council discussed the recent developments in Burma/Myanmar and expressed its continued grave concern over the events of 30 May 2003 and the deteriorating overall situation. The Council urged the Burmese authorities to immediately release Daw Aung San Suu Kyi as well as other members of the National League for Democracy (NLD), and to re-open NLD offices and universities throughout the country.

2. The Council called on the Burmese authorities to ensure that those responsible for the attacks on Daw Aung San Suu Kyi and her colleagues at Saging during which a number of deaths occurred are held to account.

3. In order to re-launch a process of national reconciliation and transition to democracy in Burma/Myanmar, the Council urged the authorities to enter into a substantial and meaningful political dialogue with the NLD as well as other political groups. The Council reiterated its call to Burma to respect its promises to release all political prisoners and expressed its deep concern over the noted increase of politically motivated arrests.

4. The Council expressed its support for the ongoing efforts of the UNSG Special Representative to Burma/Myanmar, Ambassador Razali, and reiterated its support for the UN’s vital role in bringing about political progress in Burma/Myanmar.

5. Moreover, the Council encouraged the ASEAN countries and their key partners, in particular China, India and Japan, to use their influence to actively promote the necessary political change in Burma/Myanmar.

6. In accordance with its commitment to react proportionately to developments in Burma/Myanmar and in light of the serious deterioration of the situation in the country, especially over the last weeks, the Council decided to implement without delay the strengthened sanctions originally envisaged to enter into force by October 2003. The Council also decided to monitor closely the further evolution of the situation in Burma/Myanmar, and reaffirmed its readiness to react proportionately to future developments.

The Council further decided to postpone the Troika visit on a political level previously scheduled to take place before the end of October 2003."
APPENDIX 4

UNITED NATIONS OFFICIAL DOCUMENTS.
Resolution adopted by the General Assembly

[on the report of the Third Committee (A/57/559/Add.5)]

57/231. Situation of human rights in Myanmar

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,¹ the International Covenants on Human Rights² and other human rights instruments,

Reaffirming that all States Members of the United Nations have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have undertaken under the various international instruments in the field,

Aware that Myanmar is a party to the Convention on the Rights of the Child,³ the Convention on the Elimination of All Forms of Discrimination against Women,⁴ the Geneva Conventions of 12 August 1949 on the protection of the victims of war,⁵ as well as the Convention concerning Forced or Compulsory Labour, 1930 (Convention No. 29) and the Convention concerning Freedom of Association and Protection of the Right to Organize, 1948 (Convention No. 87), of the International Labour Organization,

Recalling its previous resolutions on the subject, the most recent of which is resolution 55/231 of 24-December 2001, and those of the Commission on Human Rights, the most recent of which is resolution 2002/67 of 25 April 2002,⁶

Recalling resolution I adopted by the International Labour Conference at its eighty-eighth session, on 14 June 2000, concerning the practice of forced or compulsory labour in Myanmar,

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¹ Resolution 217 A (III).
² Resolution 2200 A (XXI), annex.
³ Resolution 44/25, annex.
⁴ Resolution 34/189, annex.
Affirming that the will of the people is the basis of the authority of government and that the will of the people of Myanmar was clearly expressed in the elections held in 1990,

Affirming also that the establishment of a genuine democratic government in Myanmar is essential for the realization of all human rights and fundamental freedoms,

1. Welcomes:

(a) The preliminary steps taken by the Government of Myanmar towards democracy, in particular the release from house arrest of Aung San Suu Kyi on 6 May 2002 and her subsequent internal freedom of movement, the release of a number of political prisoners and the relaxation of some constraints on some political activities of the National League for Democracy;

(b) The appointment by the International Labour Organization of a liaison officer in Myanmar as a first step towards the establishment of its full and effective representation in Myanmar;

(c) The visits to Myanmar by the Special Envoy of the Secretary-General for Myanmar during the past year, the visits by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, and the cooperation extended to them by the Government of Myanmar;

(d) The continuing cooperation with the International Committee of the Red Cross;

(e) The dissemination of human rights standards for public officials and some non-governmental organizations and ethnic groups through the convening of a series of human rights workshops;

2. Notes the establishment by the Government of Myanmar of a committee on human rights as a precursor to the establishment of a national human rights commission, which would follow the Principles relating to the status of national institutions for the promotion and protection of human rights annexed to General Assembly resolution 48/134 of 20 December 1993;

3. Expresses its grave concern at:

(a) The ongoing systematic violation of the human rights, including civil, political, economic, social and cultural rights, of the people of Myanmar;

(b) Extrajudicial killings; rapes and other forms of sexual violence carried out by members of the armed forces; torture; renewed instances of political arrests and continuing detentions, including of prisoners who have served their sentences; forced relocation; destruction of livelihoods; forced labour; denial of freedom of assembly, association, expression and movement; discrimination on the basis of religious or ethnic background; wide disrespect for the rule of law and lack of independence of the judiciary; deeply unsatisfactory conditions of detention; systematic use of child soldiers; and violations of the right to an adequate standard of living, in particular food and medical care, and to education;

(c) The disproportionate suffering of members of ethnic minorities, women and children from such violations;

(d) The situation of the large number of internally displaced persons and the flow of refugees to neighbouring countries.
(e) The ever-increasing impact of the human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) on the population of Myanmar;

4. **Calls upon** the Government of Myanmar:

(a) To fulfill its obligations to restore the independence of the judiciary and due process of law, and to take further steps to reform the system of the administration of justice;

(b) To take immediate action to implement fully concrete legislative, executive and administrative measures to eradicate the practice of forced labour and to implement fully the recommendations of the Commission of Inquiry established to examine the observance by Myanmar of the International Labour Organization Convention concerning Forced or Compulsory Labour (Convention No. 29);

(c) To pursue the dialogue with the International Labour Organization with a view to full and effective representation of the Organization in Myanmar;

(d) To ensure safe and unhindered access to the United Nations and international humanitarian organizations and to cooperate fully with all sectors of society by means of consultation, especially with the National League for Democracy and other relevant political, ethnic and community-based groups, to ensure the provision of humanitarian assistance and to guarantee that it does reach the most vulnerable groups of the population;

(e) To continue to cooperate with the Special Envoy of the Secretary-General for Myanmar and the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar;

(f) To consider as a matter of high priority becoming a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention relating to the Status of Refugees and the Protocol thereto, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (Convention No. 182);

(g) To pursue through dialogue and peaceful means an end to conflict with all ethnic groups in Myanmar;

5. **Strongly urges** the Government of Myanmar:

(a) To restore democracy and implement the results of the 1990 elections, to ensure that the contacts with Aung San Suu Kyi and other leaders of the National League for Democracy move without delay into substantive and structured dialogue.

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1 Resolution 39/46, annex.
2 Resolution 2106 A (XX), annex.
5 Resolution 54/263, annex I.
(b) To end the systematic violations of human rights in Myanmar, to ensure full respect for all human rights and fundamental freedoms, to end impunity and to investigate and bring to justice any perpetrators of human rights violations, including members of the military and other government agents in all circumstances;

(c) To facilitate and cooperate fully with an independent international investigation of charges of rape and other abuse of civilians carried out by members of the armed forces in Shan and other states;

(d) To release unconditionally and immediately all political prisoners;

(e) To put an immediate end to the recruitment and use of child soldiers and to extend full cooperation to relevant international organizations in order to ensure the demobilization of child soldiers, their return home and their rehabilitation;

(f) To lift all restraints on peaceful political activity, including guaranteeing freedom of association and freedom of expression, including freedom of the media;

(g) To end the systematic enforced displacement of persons and other causes of refugee flows to neighbouring countries, to provide the necessary protection and assistance to internally displaced persons and to respect the right of refugees to a voluntary, safe and dignified return monitored by appropriate international agencies;

(h) To recognize further the gravity of the situation regarding HIV/AIDS and the need to take the necessary action to combat the epidemic, including the effective implementation in Myanmar of the United Nations joint action plan on HIV/AIDS, in cooperation with all relevant political and ethnic groups;

6. Requests the Secretary-General to continue to provide his good offices and to pursue his discussions on the situation of human rights and the restoration of democracy with the Government and people of Myanmar, to submit additional reports to the General Assembly during its fifty-seventh session on the progress of those discussions, and to report to the Assembly at its fifty-eighth session and to the Commission on Human Rights at its fifty-ninth session on the progress made in the implementation of the present resolution;

7. Decides to continue the consideration of this question at its fifty-eighth session.

77th plenary meeting
18 December 2002
Situation in Myanmar

Sub-Commission on Human Rights resolution 1993/19

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Bearing in mind the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,

Recalling Commission on Human Rights resolution 1993/73 of 10 March 1993,

Recalling also its resolution 1992/22 of 27 August 1992 on the question of human rights and states of emergency, in which it expressed its appreciation to the Special Rapporteur, Mr. Leandro Despouy, for his fifth annual report (E/CN.4/Sub.2/1992/23),

Deeply concerned at continued reports of the routine torture and mistreatment of detainees and prisoners by members of the Myanmar police, intelligence and military forces,

Noting that, despite the release between April and December 1992 of many hundreds of prisoners, thousands of others remain under arbitrary detention, including the 1991 Nobel Peace Prize recipient, Aung San Suu Kyi, and numerous other political leaders,

Deploring the ongoing persecution of Muslims, Christians and ethnic minorities and the numerous violations of human rights entailed by the practices of forced conscription and porterage,

Noting with concern the conclusions and recommendations contained in the report on the situation of human rights submitted by the Special Rapporteur of the Commission on Human Rights, Mr. Yozo Yokota (E/CN.4/1993/37),

Noting also with regret that the Government of Myanmar has withheld its full cooperation concerning the on-site visit by the Special Rapporteur and has refused to allow monitoring by the International Committee of the Red Cross,

Commending, however, the recent discussions between the Government of Myanmar and
the United Nations High Commissioner for Refugees at Yangon in July 1993, in which it was agreed, in principle, that the Office of the United Nations High Commissioner for Refugees would be allowed to establish a presence in Rakhine state in Myanmar to assist and coordinate the voluntary repatriation of the residents of Rakhine state at present in camps in Bangladesh, assisted by the Office of the United Nations High Commissioner for Refugees,

1. Calls upon the Government of Myanmar to ensure respect for human rights and fundamental freedoms for all citizens, including all minorities, notably through the repeal of discriminatory citizenship laws and immediate and unqualified cessation of all practices of torture, arbitrary detention, forced conscription, forced porterage and forced relocation, and of violent attacks on civilians, including children and women, by members of the armed forces;

2. Also calls upon the Government of Myanmar to allow full implementation of the results of the election of 27 May 1990, in accordance with General Assembly resolution 47/144 of 18 December 1992;

3. Urges the Government of Myanmar to cooperate fully with the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar and with the International Committee of the Red Cross in their monitoring activities;

4. Reminds the Government of Myanmar of its obligations under common article 3 of the Geneva Conventions of 12 August 1949 regarding the protection of civilians in armed conflicts not of an international character;

5. Encourages the Government of Myanmar to continue the positive cooperation with the Office of the United Nations High Commissioner for Refugees initiated in recent discussions concerning their mutual responsibilities regarding the repatriation of returnees from Bangladesh;

6. Invites the Government of Myanmar to consider, as a matter of urgency, acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights and other human rights instruments to which it is not yet a party.

27th meeting

20 August 1993

[Adopted by secret ballot by 17 votes to 2, with 5 abstentions.]