

Commentary by Burma Campaign UK

On 20th June 2011 the Financial Times published an article by Markus Loening, Germany's federal commissioner for human rights policy, 'It is time to fine-tune sanctions on Burma'. It is rare for a German government official to make a detailed statement on their thinking on Burma policy, and the article is more revealing than perhaps was intended.

Loening's arguments expose a fundamental misunderstanding of the situation in Burma, the history of EU policy, of the Burmese economy, and of the dictatorship itself. This misunderstanding is shared by his government and several other EU members. The article also contains many inaccuracies.

In his first sentence Loening, who is unknown to most Europeans, describes himself as the first high-ranking European to visit Burma since the elections, despite officials from many European countries having already visited.

The article is entirely slanted towards the German agenda of relaxing pressure on the dictatorship, and increasing trade. This is not a new policy, but in the past Germany has denied that it has pushed to relax sanctions, hiding behind the confidentiality of internal EU meetings. Germany has finally come out of the closet.

The German commissioner for human rights writes just one sentence on human rights abuses taking place in Burma. These abuses are so serious that the UN Special Rapporteur for human rights in Burma has called for a UN Commission of Inquiry into possible war crimes and crimes against humanity. This isn't mentioned, as talking about

human rights abuses makes relaxing pressure on the dictatorship sound less reasonable. It is, therefore, no surprise that they get only a passing mention. Also downplayed are the rigged elections last November, described merely as 'flawed'. The decades long crisis of internal displacement and refugees, affecting millions of people, is bizarrely described as only 'brewing'.

Loening argues that sanctions must be 'fine-tuned, linked to performance, and lifted, stage by stage, to reward progress.' This is not new, it has technically been EU policy since the first Common Position was agreed back in 1996. It is Germany that has been one of the main obstacles to implementing this policy.

EU Burma policy once made sense. Sanctions would be gradually increased if there was no progress towards improving human rights and democratisation. They would start to be relaxed in response to positive change. The focus was on pushing the dictatorship into dialogue. The generals would be faced with a gradual and inexorable increase in targeted sanctions if they didn't make progress, and a relaxing of pressure if they did.

The EU started off small, with visa bans and later an asset freeze for those on the visa ban list. The withdrawal of GSP privileges was not officially part of the process. It was in response to the endemic use of forced labour, a widespread problem which remains to this day, but which Loening doesn't mention.

No one seriously believed that stopping the generals shopping in Europe would force them to

the negotiating table. It was an early step towards stronger measures. But when it came time to step up the pressure, to impose targeted sanctions which would have a real impact on the dictatorship and their business cronies, Germany was one of the main EU members which said no.

Since then, the EU has been riven with internal disputes, unable to implement a coherent policy and exercise influence, a situation that the dictatorship has exploited to the full.

The only time the EU has been able to agree any new sanctions is when there has been an atrocity, such as the Depayin Massacre and arrest of Aung San Suu Kyi in 2003, or the crushing of the democracy uprising in 2007. In these cases sanctions were imposed not to complement and support any diplomatic effort, but rather as a slap on the wrist, a punishment for bad behaviour. And they were a weak punishment at that. Germany was one of the main governments which worked behind the scenes to rip the guts out of most EU sanctions, looking good on paper but ineffective in practice. In one notorious example, the EU sanctioned a Burmese pineapple juice factory while completely avoiding the oil and gas sector.

Despite saying that the relaxation of sanctions should be to reward progress, Loening goes on to make a case for not renewing GSP sanctions, saying that 'opening up the markets to Burma, allowing it to attract foreign investors, would ease modernisation and relieve poverty.'

This exposes a fundamental misunderstanding of how the Burmese economy works. It is entirely slanted towards enriching a small minority of senior military officials and business cronies. Increasing trade won't have any significant impact on relieving poverty. What causes poverty in Burma is the policies of the dictatorship.

The dictatorship does not follow an economic model whereby it sees economic growth as increasing its power and influence, and so then facilitates that. Investment does not go into manufacturing and industrialisation which would provide employment. It goes into natural resource extraction whereby revenue goes directly to the dictatorship.

And if Germany is so concerned about poverty in Burma, why does it give so little aid, just 10 million euros a year?

Loening claims that a by-product of EU sanctions is Burmese women forced out of the 'now crippled' textile industry and ending up as sex-workers. This is inaccurate on many levels. First, he is repeating a now discredited claim by a former US government official that US import sanctions imposed in 2003 forced many women into the sex industry. The same official later went on to work for a business lobby pushing for the lifting of sanctions on Burma. However, a local staff member of an international NGO working in Burma investigated these claims and could not substantiate them.

In addition, the EU doesn't have sanctions on textile imports from Burma, so EU sanctions cannot be blamed for factory closures. Nor can EU GSP sanctions be blamed. The EU GSP sanctions were introduced in 1997, and exports to EU countries even increased after that date.

The 2003 USA ban on imports from Burma did have an impact on factories in Burma, but within a year some factories were re-opening, and exports to the EU were increasing.

So it is completely false of Loening to argue 'Can EU sanctions really be meant...to propel women into brothels.'

Whether this falsehood is due to ignorance, that he simply does not know which sanctions the EU has, or whether he has deliberately misled people in his article in order to make his case against sanctions, is for him to explain.

Factors not mentioned by Loening, but which actually have the biggest impact on the industry, aside from the overall impact of government skewing investment policy towards natural resource extraction, include (as argued by the IMF) rampant corruption, and the lack of reliable power supply (as gas and hydropower are sold abroad for money, rather than supplying power for domestic use, which would be necessary for economic development in Burma).

Another big factor not mentioned was the ending of the Multi-Fibre Arrangement and China joining the WTO. Significant production was moved to China.

Loening attacks the UK policy of opposing relaxing sanctions on Burma: 'European influence is melting away as our already small share of Burma's trade shrivels,' he states. Again this completely misreads the reality. Burma's dictatorship clearly cares more about US policy on Burma than Europe's. US State Department officials have made several visits to Burma, and were able to meet with Aung San Suu Kyi while she was under house arrest. In contrast, EU officials repeatedly tried and failed even to get a visa, and when the regime agreed they could visit, they were told they could not meet with Aung San Suu Kyi.

Why the difference? The USA has tough sanctions, the EU doesn't. The EU's influence is weakened by not having tough sanctions, rather than by not having more trade and investment.

Loening's argument also ignores another critical factor. Increased trade and investment does not necessarily equate to increased influence. In the case of Asian trade investment, it can even be argued that it has weakened external influence. As the major purchaser of Burmese gas, a vital source of revenue for the dictatorship, some see Thailand as having potential influence in Burma. But Thai government officials see it the other way round. If they upset the dictatorship too much, and they turn off the gas, the lights in Bangkok go out.

Aside from GSP sanctions, Europe has only had trade sanctions on Burma for three years, since 2008, and these mainly target gems and timber, and are not even fully enforced. It isn't sanctions which stop investment and trade. There are no EU sanctions stopping European companies buying clothes from Burma.

Loening needs to explain how he thinks more trade and investment will increase influence. Especially as Germany has a track record, as do many other countries, of effectively defending dictatorships in countries where they have significant investments at stake.

The biggest flaw in Loening's proposition that somehow increased trade will increase European influence in Burma is historical experience. We don't even need to speculate. We were major trading and investment partners until ten years ago, but there was no influence and or improvement in the human rights situation.

What we know from experience is that the dictatorship moves when there is a credible threat, not when we try to befriend or woo the generals.

We saw this with the ILO Commission of Inquiry into forced labour, and its call for sanctions and threat of referring Burma to the International Court of Justice. We saw this in 2007 with the release of Min Ko Naing and other high profile political prisoners the day before the UN Security Council was due to vote on a resolution on Burma. And we saw it again after Cyclone Nargis in 2008, when international aid and aid workers were finally allowed into Burma after threats to take Burma to the Security Council, and the dictatorship genuinely fearing that American, French and British ships waiting off the coast to deliver aid could in fact be used to attack them.

Loening's article continues with further inaccuracies: 'Have 15 years of blanket sanctions and isolation actually improved the living conditions of anyone in the country?' There are not blanket EU sanctions and there is not a policy of isolation, so wrong on both counts. Again, is it simply that Loening doesn't know what sanctions there are, or is he deliberately trying to mislead in order to make his case?

The sanctions in place by the EU, outlined in Burma briefing No. 4: <http://www.burmacampaign.org.uk/index.php/news-and-reports/burma-briefing/title/the-european-union-and-burma>, are all targeted. Some, thanks in part to Germany, miss the right target, but in no way can they be described as blanket. There is no blanket import ban, no blanket investment ban. Thanks in part to German insistence, the EU has gone through the ridiculous process of naming individual timber and gems companies, rather than apply blanket sanctions even in these sectors.

Nor is there a policy of isolation by the EU. The EU has repeatedly tried dialogue initiatives over

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the past 20 years. Burmese government officials regularly come to Europe for ASEM meetings.

He misleads on the same issue again later in the article, stating that the EU has an 'across-the-board hardline sanctions policy'. This simply isn't the case. There are no across the board sanctions.

Another false statement on sanctions is where he states that China is moving into the gap created by EU sanctions, implying that Burmese people don't support sanctions. He states: 'The Burmese do not want this. They want to trade with us, open up to Europe. And we are denying them the option.'

To imply that all or the majority of Burmese people are opposed to sanctions is something there is absolutely no evidence for. Burma's democracy movement, including the National League for Democracy, supports targeted economic sanctions against the dictatorship. There are some Burmese who want sanctions lifted, but it is absolutely not accurate to state 'the Burmese' don't want sanctions.

Also incorrect is his assertion that Chinese companies are moving in and exploiting the gap left by EU sanctions. It is yet another assertion which has no factual basis. The EU only has sanctions on gems, timber and metals, and on investment in a small number of state owned enterprises which, under Burmese law, can't be invested in anyway. The only significant EU trade sanctions are on timber, gems and metals. No other sector is affected. Most Chinese investment is in the gas sector. There are no EU sanctions on this sector, and in fact, one of the biggest gas projects in Burma is operated by a French company, Total Oil, and an American company, Chevron. There are no EU sanctions which would prevent a European oil company investing in Burma, and in fact, many European companies are contractors for various gas projects in Burma.

The other area of major investment from China is dams, and again, there are no EU sanctions in this area, and again, there are European contractors involved in the dams. Nor, as already stated, are there EU import or investment sanctions on textiles, or on agriculture.

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Loening is right to state that sanctions 'should be a sensitive, political instrument, not a caveman's club', but Germany has been the EU caveman responsible for constructing the club. It has been one of the leading countries that turned sanctions which could have been effective economic tools into what Loening calls a 'club'.

The German human rights commissioner has had to resort to crude distortions of the facts to try to make the case for lifting sanctions. Given the lack of any real change in Burma, it isn't an easy argument to make. Loening doesn't even attempt to address one of the main contradictions in his article, making the case for relaxing sanctions within months, while at the same time saying relaxation should be linked to performance, such as the release of political prisoners.

Unlike Than Shwe when he came to power in 1992, the regime of Burma's new dictator, Thein Sein, denies there even are political prisoners in the country. Attacks against ethnic groups are increasing as Thein Sein breaks ceasefire after ceasefire, and his soldiers are raping and killing. There simply is no progress yet to justify the lifting of sanctions, in fact the situation is getting worse.

Loening also admits that sanctions can have a useful role to play, describing the prospect of including Burma in GSP as 'a big carrot to dangle before the government.' If Germany hadn't spent the past ten years blocking new targeted EU sanctions, we'd have a whole field of carrots to dangle in front of the government.

He also heaps irony on top of irony by ending his article stating: 'We have reached one of those rare moments when European foreign policy can make a difference.' There have been so many missed opportunities, and often this was because of German intransigence.

Germany has systematically undermined efforts to apply effective and targeted pressure, pressure which, by describing relaxing sanctions as a carrot, Loening admits could have been effective. In the early 2000s Germany blocked the incremental increase in EU sanctions that had been planned.

In 2003 Germany was one of the countries which delayed new sanctions after the Depayin Massacre, and ensured that those sanctions which were finally applied in 2004 were very weak.

Germany opposed EU implementing financial sanctions in tandem with the USA, when it became clear that the dictatorship had switched from using dollars to euros after US financial sanctions were imposed.

In 2007, after the crushing of the democracy uprising, Germany raised multiple objections to new targeted sanctions.

Germany has not only held back the implementation of targeted sanctions, it has also undermined diplomatic initiatives. Four years ago, by blocking EU agreement, Germany effectively vetoed an initiative by the UK and USA for the international community, including China and India, to agree common talking points when dealing with Burma.

When Burma's democracy movement first called for targeted economic sanctions, and for many years after, Europe was one of the largest investors in Burma, and China was ranked just 18th for total foreign investment. Targeted sanctions at that time would have had a major impact on the dictatorship, but Germany was one of the countries which blocked those sanctions.

The EU still has economic muscle than can and should be used, but not as much as it did. Germany is one of the main countries responsible for this. It is completely false for them to claim this is a rare moment when the EU can make a difference. Too many opportunities have already been lost due to Germany's hardline opposition to sanctions.

If Germany wants sanctions lifted because the government sees trade opportunities in Burma and neighbouring countries, they should just say so, not hide behind distortions.

But if Germany is serious about refining EU sanctions and using them as a political instrument, the government should look back at the role they have played in undermining effective EU policy on Burma. They should support the original policy of increasing pressure if there is no change, and relaxing pressure if there is change.

Given that Loening spent most of his article making the case for relaxing sanctions, rather than outlining how sanctions can be fine-tuned, sadly, this seems unlikely. More likely is that this is a public opening shot in a concerted new push by Germany to weaken EU policy on Burma, relax pressure on the dictatorship, and increase German business interests in Burma.

For Germany, as with the dictatorship, it is business as usual.

Further reading:

Article in the Financial Times by Markus Loening – It is time to fine-tune sanctions on Burma: www.ft.com/cms/s/0/f8a14688-9b82-11e0-98f2-00144feabdc0.html

Burma Briefing No 4 – The European Union on Burma: <http://www.burmacampaign.org.uk/index.php/news-and-reports/burma-briefing/title/the-european-union-and-burma>

Article in The Irrawaddy by Mark Farmaner – UN Resolution on Libya Exposes German Hypocrisy on Burma: http://www.irrawaddy.org/opinion_story.php?art_id=20874

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