

Ludovica Marchi

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Unmovable or Compromising? The European Union vis-à-vis Myanmar via EU-ASEAN: Continuity and Changes

Singapore Management University (SMU) Singapore

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Dr Ludovica Marchi (PhD)

lmb7979@gmail.com

Abstract¹

This paper examines continuity and change in European Union behaviour within its interaction with the Association of South East Asian Nations (ASEAN) with regard to Myanmar. Since the EU used its connections with ASEAN to raise its preoccupations regarding Myanmar, the Association's behaviour also comes into focus. This investigation is linked to the evolution of the EU in world affairs via its political ties to ASEAN. It concentrates on the rather abrupt change introduced by the reform process launched in 2011-12, which marked the beginning of a new phase. Continuity is observed in the EU's constant concern that the Myanmar issue did not destabilise its relations with ASEAN. Changes have been identified as following into three different phases. It is maintained that the aspiration to escape from pervasive China and the desirability of new partners were crucial in the realisation of these changes. Official documents from the EU, the European Commission, and European Council Conclusions and Common Positions, declarations issued at ASEAN, Asia-Europe and other meetings, together with secondary sources and interviews conducted mostly in Myanmar, contribute to this work. Many scholars have hinted at the extent to which the case of Myanmar caused problems to the EU-ASEAN links, but no emphasis was laid on the extent to which the Myanmar case has conversely helped to reinforce the long-lasting EU-ASEAN relationship. This is a novelty that is focused on in this paper.

Key words: EU, EU-ASEAN, ASEM, Myanmar, foreign policy analysis

Introduction

The Republic of the Union of Myanmar has recently become the focus of increasing attention among scholars and observers alike.² The 2011-12 reform process, the 2012 by-elections and the transfer of power to a civilian, military-sponsored government marked abrupt changes. President Thein Sein (a former general, Prime Minister since 2007, and President since March 2011) appeared to be the architect of the transformation. The by-elections resulted in a landslide victory for the government's opposition party, the National League for Democracy (NLD), led by Nobel Peace laureate, Daw Aung San Suu Kyi. Sein's government released a number of political prisoners, concluded ceasefire arrangements with armed groups in the ethnic regions, signed peace agreements, made efforts to eliminate the use of forced labour, recognised labourers' right to strike, and amended the censorship laws.³ In January 2013, an international conference was organized in Myanmar, at which the Sein government's timetable for reform over the next three years was unveiled. Yet, the government is facing challenges including the need to reform the Constitution, which preserves the military's supremacy over the Cabinet and Parliament⁴ (because it places the National Defence and Security Council above the *hluttaw*, the Burmese Parliament, with 10 of its 11 members being officers or former officers).⁵ Sein's restructuring has been unmatched by the previous government leadership since the

¹ A first version of this paper was prepared for the 2013 EUSA AP Annual Conference held in Macau on 17-18 May, 'Reassessing the EU-Asia Pacific Relationship in the context of the EU crisis'. The author thanks the participants for their constructive comments.

² For the country profile, see the EC/Burma/Myanmar Strategy Paper (2007-2013), pp. 5-46. Available at: http://eeas.europa.eu/myanmar/csp/07_13_en.pdf; Myint-U, T. (2013) 'Help Myanmar's peace talks to transform Asia', *Financial Times*, 22 November. Bunte, M. and Portela, C. (2012) 'Myanmar: The Beginning of Reform and the End of Sanctions', policy brief, *GIGA Focus International*, No. 3, German Institute for Global and Area Studies: Hamburg, June.

³ Censorship laws, however, still exist and are enacted. Council of the European Union, Council Conclusions on Burma/Myanmar, 3159th Foreign Affairs Council Meeting, Luxemburg, 23 April 2012. Myint-U (2013) *op. cit.*

⁴ Myanmar's military (the Tatmadaw) is constitutionally protected and exempted from civilian oversight. Article 20(b) of the Constitution gives the military complete authority over the ministries of defence, interior and border affairs, as it appoints all three ministers. Article 109(b) and 141(b) reserve 25 % of parliamentary seats for the military, which in effect gives them a veto over any attempts to alter the Constitution because of the supermajority required for revision. Tonkin, D. (2013) *EastAsiaForum*, 3 May.

⁵ MacDonald, A. (2013) 'The Tatmadaw's new position in Myanmar politics', *EastAsiaForum*, 1st May. Available at: <http://www.eastasiaforum.org/2013/05/01/the-tatmadaws-new-position-in-myanmar-politics/>

coup d'état of 1962. The latter brought to power a military junta (under the official name of the State Peace and Development Council, SPDC, successively changed into the State Law and Order Restoration Council, SLORC, and again into the SPDC) which ruled the country until 2011. The SLORC/SPDC suppressed domestic dissent and exercised absolute power, despite 20 years of sanctions imposed by the EU and other international actors. The new developments have been acknowledged by the EU as 'historic improvements',⁶ and as 'a significant step towards further democratisation in Myanmar' (paragr. 87) by the Association of South East Asian Nations (ASEAN).⁷ ASEAN is the regional group of which Myanmar has been a member since 1997. Within ASEAN, the European Union raised its concerns about Myanmar and 'encouraged positive changes'.⁸

The transformations in Myanmar gave way to a new phase in the relations with the European Union. The European Council suspended the visa ban on cabinet members and other high ranking officials in 2011, and placed Myanmar under the Everything but Arms (EBA) regime. High Representative Ashton opened a EU Office in Yangon, which was later upgraded to a Delegation.⁹ The European Union has more than doubled the development aid (to about 150 million euros for 2012-13), explored the feasibility of a bilateral investment agreement and the possibility of reinstating a preferential tariffs deal with Yangon. It expanded bilateral trade with Myanmar (226.37 million dollars in 2012) as well as Myanmar's exports to the EU (43.54 million dollars) and imports from the EU (182.83 million dollars),¹⁰ all of which are vital to Myanmar (with a GDP of US\$ 876 in 2010).¹¹ It allocated initial funds to the Myanmar Peace Centre in Yangon (EUR 700,000) in 2012, and further contributed EUR 30 million in 2013 to the ethnic peace process.¹² It has agreed to the building up of a lasting EU-Myanmar partnership.¹³ To turn commitments into reality, a joint Task Force met in Myanmar in November 2013,¹⁴ following the first Myanmar-EU Forum in Nay Pyi Taw in June 2013. The Council has indicated that, having imposed sanctions calling for a change, it now feels a responsibility to help, and assist the government in rebuilding its place in the international community.¹⁵

These developments offer an opportunity to review the EU's efforts to induce Myanmar's military regime to work towards political transformation. A specific question is addressed:

What are the elements of continuity and change in EU behaviour within its interaction with ASEAN with regard to Myanmar? Since the EU has used its connections with ASEAN to raise its preoccupations in relation to Myanmar, the Association's behaviour also comes into focus.

This is an empirical investigation hinging on the evolution of the EU in world affairs via its political ties to ASEAN. Continuity is observed in the EU's constant concern that the Myanmar issue did not destabilise its relations with ASEAN. Changes have been identified as following into three different phases corresponding to the periods 1991-1997, 1998-2006 and 2007-2012. It is maintained that the aspiration to escape from pervasive China¹⁶ and the desirability of new partners were crucial in the

⁶ Council of the European Union, Council Conclusions on Burma/Myanmar, 3159th Foreign Affairs Council Meeting, Luxembourg, 23 April 2012, *op. cit.*

⁷ Chairman's Statement of the 20th ASEAN Summit, Phnom Penh, 3-4 April 2012. ASEAN is formed by Indonesia, Malaysia, the Philippines, Singapore and Thailand, which are the five founding states, to which later Brunei, Vietnam, Laos, Myanmar and Cambodia also joined, totaling ten members.

⁸ European Union External Action, Myanmar.

⁹ Council of the European Union, Council Conclusions on Burma/Myanmar, 3159th Foreign Affairs Council Meeting, Luxembourg, 23 April 2012.

¹⁰ Myanmar, EU agrees to use forum to advance ties. 20 June 2013. Available at: <http://www.globaltimes.cn/content/790343.shtml#UdrvwpX3Afe>

¹¹ United Nations, National Accounts Main Aggregates Database (<http://unstats.un.org/>). Kubo, H. (2013) 'EU-Asia Trade Relations' in Christiansen, T., Kirchener, E. and Murray, P. (eds) *The Palgrave Handbook of EU-Asia*, Houndmills: Palgrave, 247-262, 257.

¹² EC President Barroso, Minister Aung Min Sign Joint Declaration at Myanmar Peace Centre, Brussels, 3 November 2012. European Commission, IP/12/1167.

¹³ Joint statement by President of the European Council Herman Van Rompuy, President of the European Commission Jose' Manuel Barroso and President of the Republic of the Union of Myanmar U Thein Sein, Brussels, 5 March 2013, EUCO 58/13. Available at:

http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/135830.pdf

¹⁴ http://europa.eu/rapid/press-release_MEMO-13-176_en.htm

¹⁵ Council of the European Union, Council conclusions on the Comprehensive Framework for the European Union's policy and support to Myanmar/Burma, Foreign Affairs Council meeting, Brussels, 22 July 2013.

¹⁶ Also hatred for India is an issue within Myanmar.

realisation of these changes. Official documents from the EU, the European Commission, and European Council Conclusions and Common Positions, speeches and declarations issued at ASEAN, Asia-Europe and other meetings, together with Southeast Asian and European newspapers, secondary sources and interviews conducted in Myanmar in January 2013, including one with a former EU Special Envoy for Myanmar and ASEAN leaders, contribute to this work. The text of the relevant declarations and Council Common Positions is accessible in the footnotes. Many scholars have hinted at the extent to which the case of Myanmar caused problems to the EU-ASEAN links, but no emphasis was laid on the extent to which the Myanmar case has conversely helped to reinforce the long-lasting EU-ASEAN relationship. This is a novelty that is focused on in this paper. This investigation is organised into four main sections, which include the present introduction, the official documents and recent publications, the distinct phases in action, and the conclusions.

Official documents and recent publications

How can we explore the European Union's attention to Myanmar through its connections with ASEAN (the Asia-Europe Meeting (ASEM) is an offshoot of ASEAN),¹⁷ and have similar investigations already been conducted? A thread is found in the official EU documents and documents by the European Commission, namely: the 1994 Communication of the Commission to the Council 'Towards A New Asia Strategy',¹⁸ the 2001 Commission Communication on 'Europe and Asia: A Strategic Framework for Enhanced Partnerships',¹⁹ the 2003 Communication from the Commission 'A new partnership with South East Asia',²⁰ the 2007 European Commission's 'Country Strategy Paper on Myanmar',²¹ and the 2013 'Comprehensive Framework for the European Union's policy and support to Myanmar/Burma'.²² In these documents, and particularly in the 1994 communication, as the Commission itself explains, the term 'Asia' includes three sub-regions, one of which is the Southeast Asia region. These documents support the following general context.

The establishment of an important presence in (Asia)/Southeast Asia is claimed to allow the European Union to ensure that its interests (in economic and security matters – arms control, non-proliferation and the security of the sea lanes, p. 2) are fully acknowledged in this key region (p. 3) (1994 document). The EU's intention to raise its political and economic presence across the region to a level commensurate with the growing global weight of an enlarged EU is another assertion that is upheld (p. 3), to which the key priority of further strengthening the long-standing partnership with ASEAN contributes (p. 22) (document 2001). The account that economic imperatives for closer cooperation are based on the fact that Southeast Asia is set to become one of the most dynamic growth areas in the world economy (p. 3) has supported the EU's proposition to revitalise its relations with ASEAN (p. 3) (2003 document). EU Ministers were ready to discuss Burmese matters with their Myanmar counterparts at several regional meetings (ASEAN-EU Ministerial, ASEM, or bilaterally at the margins of these meetings) (p. 20) (2007 document). The EU's goals includes assisting Myanmar's government in reestablish its place in the international community (p. 2) and helping it to reap the benefits of its integration into ASEAN (p. 4) (document 2013). These discourses of the EU frame the observation of the European Union's behaviour within EU-ASEAN's interactions with regard to Myanmar.²³

¹⁷ Asia-Europe Meeting is considered an emanation of the Association because negotiations for the first ASEM summit were carried out through the interregional dialogue channel between ASEAN and the EU (Yeo 2013, 332). ASEM reflected ASEAN's ambition to promote an East Asian regionalism around the ASEAN core (Manea 2013, 321-2). Yeo, L. H. (2013) 'The Asia-Europe Meeting' in Christiansen *et al.* (eds), *op. cit.*, 330-343. Manea, M. G. (2013) 'The Institutional Dimension of EU-ASEAN Plus Three Inter-regional Relations', in Christiansen *et al* (eds), *op. cit.*, 313-329.

¹⁸ Communication of the Commission to the Council, COM(94)314, Brussels, 13 July 1994.

¹⁹ Commission Communication on 'Europe and Asia: A Strategic Framework for Enhanced Partnerships' COM(2001) 469 final, Brussels 4 September 2001.

²⁰ Commission of the European Communities, 'Communication from the Commission, A new partnership with South East Asia', Brussels, 9.7.2003, COM(2003)399 final.

²¹ The EC/Burma/Myanmar Strategy Paper (2007-2013).

²² Council of the European Union, Council conclusions on the Comprehensive Framework for the European Union's policy and support to Myanmar/Burma, Foreign Affairs Council meeting, Brussels, 22 July 2013, *op. cit.*

²³ Also ASEAN held interests in EU involvement in the region. Beyond the relevance of economic trade and the hope to benefit from the EU experience in regional integration, ASEAN sought to involve the EU to balance the weight of (the US and) China. See Cameron, F. (2013) 'The Evolution of EU-Asia Relations: 2001-2011', in Christiansen *et al* (eds) *op. cit.*, 30-44, 33.

Recent publications

An examination of the literature in this field reveals that some researchers have considered the EU's relationship to Myanmar, explained how the EU has jeopardised its relations with ASEAN through its criticism of that country,²⁴ and provided suggestions about how the EU might support reform in Myanmar.²⁵ An overview of recent developments there,²⁶ and a focus on the reforms have also been provided.²⁷ The issue of whether the EU's sanctions induce undemocratic governments to change their ruling system formed the topic of a case study on Myanmar.²⁸ A review of the comprehensive ties between the EU and ASEAN, paying brief attention to Myanmar as a permanent point of contention, constituted the subject of another recent contribution.²⁹ Research on how interaction is central to analysing human rights, as part of the process of ASEAN's identity formation, has also been published, shedding some light on the diplomatic incidents and tensions that arose when the EU embarked on a region-to-region interaction with Myanmar.³⁰ The argument that the EU's targeted (rather than full) sanctions allowed the EU member states to protect their commercial and/or political interests in Myanmar was also sustained (p. 158).³¹ An evaluation of ASEM in its first decade (including both how it has been considered as the way out of the EU-ASEAN deadlock on Myanmar and how it has been challenged by the crisis) was made available.³² The issue of Myanmar's inclusion in the 2004 ASEM enlargement has been explored.³³ An investigation of EU-ASEAN ties with attention to values, norms and culture, and also to Myanmar is accessible.³⁴ The view that ASEAN's intra-regional and inter-regional human rights interactions with Europe are mutually dependent was discussed with ample reference to Myanmar.³⁵ The argument of how the EU-ASEAN relationship may turn out to be not only rich in declarations but also of a substantial character has been considered, though Myanmar was dealt with only briefly.³⁶

Other publications have centred on EU ASEAN links, or on ASEM, but not all of them have paid attention to Myanmar. The kind of lessons that the EU could learn from ASEAN have been explained,³⁷ and the EU's limited strategic approach to Asia has been criticised.³⁸ Reflections on

²⁴ duRocher, S. B. 'The European Union, Burma/Myanmar and ASEAN: A challenge to European norms and values or a new opportunity?', *Asia Europe Journal*, 10, 2012, pp. 165-180.

²⁵ Parello-Plesner, J. 'How the EU can support Reform in Burma', *ecfr.eu*, 2012, pp. 1-9.

²⁶ Rieffel, L. (2012) 'Myanmar on the Move: An Overview of Recent Developments', *Journal of Current Southeast Asian Affairs*, 4: 31-49.

²⁷ Bunte and Portela (2012) *op. cit.*

²⁸ Portela, C. (2010) *European Union Sanctions and Foreign Policy. When and why do they work?* London: Routledge. Portela, C. and Vennesson, P. (2013) 'Sanctions and Embargoes in EU-Asia Relations' in Christiansen *et al* (eds), *op. cit.*, 198-210.

²⁹ Brettner-Messler, G. (2012) 'EU and ASEAN – The Interregional Relationship between Europe and Asia', in Gareis, SB., Hauser, G. and Kernic, F. (eds) *The European Union: A Global Actor?*, Opladen/Farmington Hills: Budrich Publishers: 138-160.

³⁰ Manea, M. G. (2009) 'How and Why Interaction Matters: ASEAN Regional Identity and Human Rights', *Cooperation and Conflict*, Vol. 44, No. 1: 27-49.

³¹ Smith, K. E. (2006) 'The Limits of Proactive Cosmopolitanism: The EU and Burma/Myanmar, Cuba and Zimbabwe', in Elgstrom, O. Smith, M. (eds) *The European Union's Roles in International Politics. Concepts and Analysis*, London: Routledge.

³² 'ASEM in its Tenth Year: Looking Back, Looking Forward', European Background Study, University of Helsinki, 2006.

³³ Fitriani, E. (2013) 'ASEM and Southeast Asian countries' foreign policy. Study case: The issue of Myanmar in the 2004 ASEM enlargement', ISEAS Singapore, 1-37.

³⁴ deFlers, N. A. (2010) 'EU-ASEAN Relations: The Importance of Values, Norms and Culture', Working Paper No. 1, EU Centre in Singapore.

³⁵ Manea, M. G. (2008) 'Human rights and the interregional dialogue between Asia and Europe: ASEAN-EU relations and ASEM', *The Pacific Review*, Vol. 21, No. 3: 369-396.

³⁶ Moeller, J. O. (2007) 'ASEAN's Relations with the European Union: Obstacles and Opportunities', *Contemporary Southeast Asia*, Vol. 29, No. 3: 465-482.

³⁷ Mahbubani, K. (2012) 'Can the EU learn lessons from ASEAN?'

<http://www.mahbubani.net/articles%20by%20dean/can-the-eu-learn-lessons-from-asean.pdf>. T.

³⁸ Engelbrekt, K. (2012) 'The Missing Link in the EU's Nascent Strategic Approach toward Asia: Military Diplomacy', *Asia-Pacific Review* Vol. 19 No. 2.

different aspects of EU-Asia relations were included in a handbook,³⁹ and a selection of topics from an interdisciplinary perspective concerning these relations was made available.⁴⁰ Further studies sought to shed light on the importance of ASEM from a European perspective,⁴¹ and examined the EU's foreign policy in the Asia Pacific region.⁴² A less recent work explored the EU in Southeast Asia together with its ties to ASEAN.⁴³ While Casarini made no reference to Myanmar, Zhou and Forster did so only indirectly.

Other analysts have studied Sino-Myanmar relations explained how China emerged as the most important foreign actor in Myanmar after the Western boycott of its industrial and agricultural sectors⁴⁴ and examined how a series of events, since mid-2011, including the rapid improvement of Myanmar's relationship with the West, have 'frustrated' China's aspiration to engage in a 'loyal friend' partnership with Myanmar.⁴⁵ Other observers have focused on the potential sources of instability that Myanmar faces in its surrounding region, which could threaten its neighbours, including China.⁴⁶ A further work centred on Myanmar's President Sein's priorities and civil society's role in representing the popular interests,⁴⁷ while yet another analysed the problem of democracy in Myanmar.⁴⁸ Explanations of how the recent political changes in Myanmar came about,⁴⁹ and how peace prospects may evolve, with a strong emphasis on human right claims, have also been offered,⁵⁰ together with an exploration of the major trends in Foreign Direct Investment in Myanmar (1989-2011).⁵¹ A brief hint at Myanmar in its geopolitical complexity considered in the security regionalism of the Asia-Pacific area was proposed.⁵² The argument that ASEAN's failure to take a stronger line on Myanmar has less to do with its non-interference norms than with the interests of the region's illiberal elites has been sustained.⁵³ An analysis of how different socio-economic interests shape foreign policy in the ASEAN states is accessible, with a focus on the ASEAN Inter-Parliamentary Myanmar Caucus.⁵⁴ A recent extensive examination of all of the developments which have characterised Myanmar over the years, including its participation in ASEAN, is now available.⁵⁵ Less recent analyses but still important are the focus on the complex relations between Myanmar and ASEAN,⁵⁶ together with the discussion of Myanmar's

³⁹ Christiansen *et al.* (eds) (2013) *op. cit.*

⁴⁰ Novotny, D. and Portela, C. (eds) (2012) *EU-ASEAN Relations in the 21st Century. Strategic Partnership in the Making*, New York, Palgrave.

⁴¹ W. Zhou, 'Beyond A Trade Agenda: EU's Interregional Approach Towards East Asia', *European Foreign Affairs Review*, Vol. 16, 2011, pp. 407-426.

⁴² Casarini, N. (2012) 'EU Foreign Policy in the Asia Pacific: Striking the Right Balance Between the US, China and ASEAN', EUISS Analysis, pp. 1-6.

⁴³ A. Forster, 'The European Union in South-East Asia: continuity and change in turbulent times', *International Affairs* Vol. 75, No. 4, 1999, pp. 743-758.

⁴⁴ Swanstrom, N. (2012) 'Sino-Myanmar Relations: Security and Beyond', Institute for Security and Development Policy, Stockholm, pp. 1-25.

⁴⁵ Sun, Y. (2012) 'China's Strategic Misjudgment on Myanmar', *Journal of Current Southeast Asian Affairs*, 1, pp. 73-96.

⁴⁶ Kurlantzick, J. (2011) 'Myanmar: Sources of Instability and Potential for US-China Cooperation', Council on Foreign Relations.

⁴⁷ M. Thuzar, 'Myanmar: No Turning Back', *Southeast Asian Affairs*, Vol. 1, 2012, pp. 203-219.

⁴⁸ Steinberg, D. (2012) 'The Problem of Democracy in the Republic of the Union of Myanmar: Neither Nation-State Nor State-Nation?', *Southeast Asian Affairs*, Vol. 1, pp. 220-237.

⁴⁹ Hlaing, K. Y. (2012) 'Understanding Recent Political Changes in Myanmar', *Contemporary Southeast Asia*, Vol. 34, No. 2, pp. 197-216.

⁵⁰ South, A. (2012) 'The Politics of Protection in Burma. Beyond the Humanitarian Mainstream', *Critical Asian Studies*, Vol. 44, 2, pp. 175-204. Kramer, T. (2012) 'Ending 50 years of military rule? Prospects for peace, democracy and development in Burma', NOREF Report, Norwegian Peacebuilding Resource Centre, pp. 1-14.

⁵¹ Bissinger, J. (2012) 'Foreign Investment in Myanmar: A Resource Boom but a Development Bust?', *Contemporary Southeast Asia*, Vol. 34, No. 1, pp. 23-52.

⁵² Hughes, C. (2007) 'New Security Dynamics in the Asia-Pacific: Extending Regionalism from Southeast to Northeast Asia' *The International Spectator* Vol. 42, No. 3: 319-335.

⁵³ Jones, L. (2008) 'ASEAN's Albatross: ASEAN's Burma's Policy, from Constructive Engagement to Critical Disengagement', *Asian Security* Vol. 4, No. 3: 271-293.

⁵⁴ Jones, L. (2009) 'Democratization and foreign policy in Southeast Asia: the case of the ASEAN Inter-Parliamentary Myanmar Caucus', *Cambridge Review of International Affairs*, Vol. 22, No. 3: 387-406.

⁵⁵ Haacke, J. (2012) 'Myanmar: now a site for Sino-US Geopolitical Competition?', LSE IDEAS, Haacke, J. (2010) 'The Myanmar imbroglio and ASEAN: heading towards the 2010 elections', *International Affairs*, Vol. 86, 1, pp. 153-174.

⁵⁶ Haacke, J. (2007) 'Myanmar and ASEAN' *The Adelphi Papers* 46:381, 41-60.

foreign policy goals before 2007.⁵⁷ Also, the way in which ASEAN might have affected political change in Myanmar has been the subject of study,⁵⁸ as well as ASEAN's diplomatic and security culture with regard to Myanmar.⁵⁹ Yet, none of these works made any mention at all of the European Union.

It is true, therefore, that Myanmar has become the focus of increasing attention among scholars and observers alike. However, an observation of the evolution of EU behaviour within EU-ASEAN's interactions with regard to Myanmar (through the reading of EU, ASEAN and ASEM official documents) in order to shed light on continuity in the EU's as well as on changes in the EU's and ASEAN's conduct, as this paper seeks to undertake, is not yet available. The present paper intends to contribute towards filling this gap.

The three distinct phases in action

How did the European Union interact with ASEAN regarding Myanmar? The policy of dialogue between the European Community (EC) and ASEAN (which established itself as a regional group in 1967) developed due to trade and economic interests. Inter-regional relations were formalized in 1977, and the first official connections were based on the ASEAN-EC Cooperation Agreement of 1980. This agreement incorporated the areas of commerce, economy and development. The procedures for the EU ASEAN dialogue consisted of an annual meeting of foreign ministers, and additional special meetings as required.⁶⁰

Different approaches

The two regional groups adopted distinct approaches to Myanmar. More generally, the European Union was inclined to enhance its 'global role' and extend its influence to Asia and Southeast Asia. With the entering into force of the Maastricht Treaty in 1993, and with the changes that this introduced in institutional and political terms, the EU embraced an 'all-inclusive policy' that was used in external relations, incorporating a variety of issues. This comprehensive policy particularly focused on the consolidation of democracy, sustainable development and good governance. The beliefs in freedom from fear, respect for the rule of law, human rights and fundamental freedoms, freedom from want, and social wellbeing in all of its aspects⁶¹ lay at the basis of the 'good governance' of the European Union. These values would later, in 2003, be included in the European Security Strategy.⁶² The EU's interpretation of 'global security' respected the principle that all states needed sufficient access to the above 'goods'.⁶³ This approach was to apply also to Myanmar.⁶⁴

For ASEAN, the compliance with the non-interference norm to its members' conduct of internal affairs was one of the principles it held, as a signatory of the 1976 Treaty of Amity and Cooperation (TAC). The ASEAN members placed great emphasis on the belief in 'mutual respect for independence, sovereignty and territorial integrity and national identity'.⁶⁵ They declared loyalty to the principles of the United Nations Charter,⁶⁶ and adherence to 'justice and the rule of law' as ideals to defend when

⁵⁷ Haacke, J. (2007) 'The Political-Security Imperative and Foreign Policy Goals', *The Adelphi Papers* 46:381, 13-24.

⁵⁸ Haacke, J. (2008) 'ASEAN and Political Change in Myanmar: Towards a Regional Initiative?' *Contemporary Southeast Asia*, Vol. 30, No. 3: 351-378.

⁵⁹ Haacke, J. (2005) "'Enhanced Interaction" with Myanmar and the Project of a Security Community: Is ASEAN Refining or Breaking with its Diplomatic and Security Culture?' *Contemporary Southeast Asia*, Vol. 27, No. 2: 188-216.

⁶⁰ Brettner-Messler (2012) *op. cit.*, 143.

⁶¹ Rotberg, R. I. (2004) 'Strengthening Governance: Ranking Countries Would Help', *The Washington Quarterly*, Vol. 28, pp. 71-81.

⁶² 'A Secure Europe in a Better World, European Security Strategy', Brussels 12 December 2003. Available at: <http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>

⁶³ Biscop, S. (2006) 'From Reflections to Power: Implementing the European Security Strategy', in Hauser, G. and Kernic, F. (eds), *European Security in Transition*, Aldershot: Ashgate, pp. 87-102.

⁶⁴ See: Wiessala, G. (2006) *Re-orienting the Fundamentals: Human Rights and New Connections in EU-Asia Relations*, Burlington, Ashgate.

⁶⁵ ASEAN Treaty of Amity and Cooperation, 1976. Available at: <http://www.asean.org/1217.htm>

⁶⁶ United Nations, 1945. Available at: <http://www.un.org/en/documents/charter/chapter1.shtml>

they undersigned the Bangkok Declaration of 1967, constitutive of their group.⁶⁷ ASEAN had not interpreted the political repression in Myanmar as an issue of democratic rights, as had the EU. Repression was an internal problem that, eventually, could be dealt with bilaterally.⁶⁸ ASEAN developed a 'quiet' and informal style of diplomacy to Myanmar that showed respect, tolerance for diversity and a commitment to non-criticism of the junta.⁶⁹

The European Union engaged in a sanction strategy through its own channel of the Common Foreign and Security Policy (CFSP) (which was introduced by the Maastricht Treaty and reinforced by the Amsterdam and Nice Treaties in 1999 and 2001).⁷⁰ The EU sanctions are understood here as measures taken in reply to Myanmar's junta behaviour, which the EU maintained was contrary to the international law.⁷¹ They are considered part of the bargaining process, stressing that the ability to reciprocate concessions made by the targeted state was essential for success. They are not intended to be repressive or punitive but, rather, coercive measures.⁷² The CFSP common positions were supported by the unanimity requirement of the Council. The CFSP provisions were supervised by the Council, which regularly reported to the Presidency and the European Commission, in order to review the decisions adopted in the light of new developments in Myanmar. When needed, further measures were deliberated and in the case of improvements, the suspension⁷³ of particular restrictions was considered as well as the gradual resumption of cooperation.⁷⁴ These developments however occurred over a long period and in fact the sanctions against Myanmar were renewed over several years.⁷⁵

ASEAN's line of opposition to the discourse of the EU on good governance (and democratic issues) grew steadily. Paradoxically the balance of preferences within the Asian group was inclined to favour states which were governed by authoritarian regimes. The latter were keen to exclude attempts to enter into an intra-regional debate on governance and humanitarian themes. Yet there were exceptions, such as ASEAN states developing national, liberal-democratic, political frameworks (Philippines and Thailand), and non-state actors engaged in different fields of social activism. Notwithstanding this intra-regional debate's fragmentation, the rejection of the 'external other'⁷⁶ was the common pattern uniting both the supporters of democracy and authoritarianism. In its relations with the EU concerning Myanmar, the Association defended its opposition to 'external interferences' (and to the good governance line). Hence, as the EU insisted on sanctions, ASEAN rejected censure of the regime by its EU dialogue partner, as it has been observed throughout the 1991-1997 period. Later, in the 1998-2006 period, the EU moderated its criticism of Myanmar, while the Association appeared to distance itself from rejecting censure of the regime by its EU dialogue, and subsequently, throughout the 2007-2012 period, the EU employed targeted sanctions and limited development cooperation, while ASEAN encouraged better governance. The respective developments characterising these three phases will now be explored.

1991-1997: The EU insists on sanctions, and ASEAN rejects the censure of the regime by its EU dialogue partner

⁶⁷ ASEAN Declaration, Bangkok, 8 August 1967. Available at: <http://www.icnl.org/research/library/files/Transnational/bangdec.pdf>

⁶⁸ Manea (2009), *op. cit.*, 35.

⁶⁹ See: Hughes (2007) *op. cit.*, p. 321-2.

⁷⁰ With the reforms of the Lisbon Treaty (2010), the CFSP has become an integral part of the Common Security and Defence Policy.

⁷¹ Taken by Combacau (1992, 313-4) in Portela (2010) *op. cit.* p. 19, 21, and adapted by the author to the European Union. Combacau, C. (1992) 'Sanctions', in Bernhardt, R. (ed) *Encyclopedia of Public International Law*, Amsterdam, North-Holland.

⁷² The EU's sanction strategy aimed at inducing Myanmar's junta to opt for better governance, building up a democratic system, representative of Burmese civil society, organised in full respect for people's liberty and labourers' rights.

⁷³ It was noted that 'the conditions for the lifting or easing of sanctions are not spelled out as such, and are condensed in a broad formulation that allows the Council ample discretion to consider their lifting' (Portela 2010, 84).

⁷⁴ As reported in the Council Common Position (96/635/CFSP) of 28 October 1996.

⁷⁵ Intensification of sanctions is documented by Portela (2010) and Manea (2009), and ASEAN states' attitude to sanctions is documented by Haacke (2010).

⁷⁶ Manea (2009), *op. cit.*, 35, 45.

The European Union's pressure for change on the military regime built up in the aftermath of the junta's violent response to the Burmese pro-democracy demonstrations in 1988. However, the EU acted officially and collectively only in 1991, with sanctions prompted by the junta's failure to recognise the results of the May 1990 elections. These earned Suu Kyi's National League for Democracy 59 per cent of the votes, and would have guaranteed 80 per cent of the parliament seats. Suu Kyi was under house arrest since 1989. According to the Council, the EU was disappointed at the unwillingness of Slorc, the military junta, to enter into a meaningful dialogue with it, and reaffirmed its determination to resume such dialogue at some point in the future. The Council agreed to the suspension of development aid (excluding humanitarian aid programmes) and on the establishment of diplomatic sanctions (see note).⁷⁷ Sanctions embargoed weapons and their ammunition and the maintenance and transfer of military technology. At the meetings with ASEAN, the EU 'expressed its overall interest in democracy (and human rights)', raising the irritation of the Association's members (in Kuala Lumpur in 1990, Luxemburg in 1991, and Manila in 1992),⁷⁸ while ASEAN maintained its critical stance towards the European Union when communicating with it. However, in 1994, the Foreign Ministers of the two regional groups agreed on a joint Declaration in Karlsruhe within which they 'expressed the hope that ASEAN's policy of constructive engagement and the EU's willingness to engage in a critical dialogue will eventually contribute to achieving more sustainable improvements in all fields' (paragraph 34).⁷⁹ This declaration was based on the two different positions: the Association's non-commitment towards criticising Myanmar and the EU's resolution to induce the junta to engage in a systematic negotiation on good governance. ASEAN's policy of constructive engagement indicated 'a mix of moderate diplomacy and greater economic interaction' which was respectful of the non-interference ideology.⁸⁰ The Commission's Communication of 1994, 'Towards a New Asia Strategy', began with the statement that the 'rise of Asia [was] dramatically changing the world balance of economic power' (p. 1).⁸¹ As a strategy, the EU aimed to remain included in the Southeast Asian region. The controversy over Myanmar was in some way watered down, as it arose in Karlsruhe, and relations tended to focus on economic ties.⁸²

The 1996 Council's request for the unconditional release of political prisoners was motivated by the junta's further repressive behaviour.⁸³ The EU insisted that the NLD, and other legitimate political parties from ethnic minorities, should be permitted to conduct their activities. The Council introduced additional sanctions,⁸⁴ renewable after six months, and reaffirmed those that had been previously adopted. With the EU's policy in Southeast Asia focusing on respect for democratic principles and associated themes (which 'together form[ed] a major objective of the external policy of the European Union' – p. 12),⁸⁵ Myanmar increasingly became the centre of attention of EU-ASEAN affairs. No intrusion within the member states' domestic matters, no emphasis on global freedom, less institutionalization and the prominence of voluntarism *vis-à-vis* cooperation remained the dominating

⁷⁷ The diplomatic sanctions involved the 'expulsion of all military personnel attached to the diplomatic representations' of Myanmar in the EU capitals, the 'withdrawal of all military personnel attached to diplomatic representations' of the EU member states in Myanmar, the suspension of high-level bilateral governmental visits to Myanmar, including those by ministers and officials at the level of political directors, and above. Council of the European Union (1991) 'Statement by the Presidency of the Council of the European Union concerning Burma/Myanmar', Press 91/238, 29 July 1991.

⁷⁸ Manea (2013) *op. cit.*, 321.

⁷⁹ Joint Declaration at the 11th EU-ASEAN Ministerial Meeting on 23 September 1994, Karlsruhe.

⁸⁰ Haacke (2007) 'Myanmar and ASEAN', *op. cit.*, 42.

⁸¹ Communication of the Commission to the Council, COM(94)314, Brussels, 13 July 1994, *op. cit.*

⁸² See: Robles, C. A. (2004) *The Political Economy of Interregional Relations: ASEAN and the EU*, Aldershot, Ashgate, 143. ASEAN and EU's interactions grew when the two engaged in discussions on political matters at the ASEAN Regional Forum (ARF) which was launched in 1993. ARF was the only inter-governmental structure aimed at promoting peace and security through dialogue and cooperation in Asia-Pacific.

⁸³ The named practices were 'torture, executions, forced labour and displacement of the population, restrictions on the fundamental rights of freedom of speech, movement and assembly'. Council of the European Union, Council Common Position (96/635/CFSP) of 28 October 1996 defined by the Council on the basis of Article J.2 of the Treaty on European Union, on Burma/Myanmar.

⁸⁴ The Council vetoed entry visa for senior members of the Slorc and their families, and senior members of the military or the security forces – and their families – who formulated, implemented or benefitted from policies that impeded Myanmar's transition to democracy. It suspended high-level bilateral governmental visits to Myanmar. These involved Ministers and Officials at the level of political director and above. Council of the European Union, Council Common Position (96/635/CFSP), of 28 October 1996, defined by the Council on the basis of Article J.2 of the Treaty on European Union, on Burma/Myanmar.

⁸⁵ Communication of the Commission to the Council, COM(94)314, Brussels, 13 July 1994, *op. cit.*

features separating the ASEAN from the EU in their respective attitudes to Myanmar (as well as to regional integration). The argument of diversity of vision took broader shape that same year, 1996, when the Association's heads of state granted observer status to Myanmar within ASEAN.

The 1997 crisis: Myanmar's admission to ASEAN

Specifically on the issue of incrementing sanctions on Myanmar, the Council agreed to investigate this matter in 1997⁸⁶ when the Association's Heads of State, contrary to the EU's resistance, accorded full ASEAN membership to Myanmar. The Association's enlargement⁸⁷ led its respective new members to join the 1980 EC-ASEAN Cooperation Agreement. By contrast, Myanmar 'was excluded ... because of its lack of democracy and its poor human rights record'.⁸⁸ The EU-ASEAN meetings were cancelled in winter 1997. Yet, a high level EU-ASEAN ministerial summit had been postponed for over two years, since the EU member states refused to convene with Burmese representatives. The EU's sanctions mostly concerned the industrial and agricultural areas as a response to the use of forced labour. Acting on a proposal by the Commission, Council Regulation EC552/97 of 24 March 1997 penalised Myanmar in accordance with International Labour Organisation Conventions Nos. 29 and 105. The measures involved the withdrawal of Myanmar's access to the system of generalized tariff preferences, previously granted by EC Regulations of 1994 and 1996.⁸⁹ The Council declared that, having discussed the implications of Myanmar's admittance to ASEAN, it expected such a membership to contribute to the promotion of democratic principles.⁹⁰ It protracted its previous sanctions for further six months. The European Union had some difficulty in coping with Myanmar's accession. The EU was a human rights advocate, as well as accountable to the national parliaments and the European Parliament, and, furthermore, it was constrained by the unanimity principle on which EU's foreign policy formulation was based. ASEAN had no strict criteria for membership and had 'never made it conditional to political reform'.⁹¹ With the Association's inclusion of Myanmar together with Laos, and previously (in 1995) of Vietnam, ASEAN was becoming more representative of the region. The European Union had more reasons than ever to confirm its intention 'to raise the profile of Europe' in Southeast Asia (p. 4),⁹² and was even inclined to take a pragmatic course,⁹³ putting aside sensitive issues.

Continuing the dialogue?

During the EU-ASEAN political crisis, Singapore's Prime Minister (Goh Chok Tong) proposed, in 1996, the Asia-Europe Meeting.⁹⁴ ASEM was judged a chiefly original proposition to resume the dialogue for at least three reasons. First, ASEM (which included 15 EU member states, the European Commission's President and the ASEAN members) had the advantage of accepting also China, Japan and South Korea, and allowed for the incorporation of India and Pakistan. Second, the participating states were to meet bi-annually. This configured a looser structure than the procedures for the EU ASEAN dialogue. ASEM biennial summits were attended by the Heads of State and Government and other officials, in addition to the President of the European Commission. In the years in-between the summits, foreign ministers held their meetings. The political pillar of ASEM (the others being economic, social, cultural and educational) encompassed security policy (international crisis, security, multilateralism, regional developments, terrorism, arm proliferation, migration and human rights). The novelty of ASEM's role lay also in its capacity to offer a forum also for the presentation of viewpoints, perspectives and intentions, as a kind of preparation for the later discussions at the appropriate

⁸⁶ 2019th Council Meeting – General Affairs - Luxembourg, 26 June 1997.

⁸⁷ Enlargement included Vietnam in 1995 and Cambodia and Laos in 1997.

⁸⁸ Fact Sheets on the European Union, 2012, http://www.europarl.europa.eu/ftu/pdf/en/FTU_6.4.12.pdf

⁸⁹ Council Regulation of 24 March 1997, (EC552/97).

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997R0552:EN:HTML>

⁹⁰ 2019th Council Meeting – General Affairs - Luxembourg, 26 June 1997, *op. cit.*

⁹¹ From ASEAN's viewpoint, Myanmar's accession had a main justification into balancing its dependency upon China. Haacke (2007, 58) 'Myanmar and ASEAN', *op. cit.*; Blankert, J. W. (2012) 'ASEAN and the EU: Natural Partners' in Novotny *et al* (eds) *op. cit.*, 139-154, 149. Nuttin, X. (2012) 'EU-ASEAN Relations in the 21st Century: In search for Common Values to Forge a Partnership', in Novotny *et al* (eds) (2012) *op. cit.*, 166-178, 175.

⁹² Communication of the Commission to the Council, COM(94)314, Brussels, 13 July 1994, *op. cit.*

⁹³ Yeo, L. H. (2007) 'The Inter-regional Dimension of EU-Asia Relations: EU-ASEAN and the Asia-Europe Meeting (ASEM) Process', *European Studies* Vol. 25: 173-191, 180.

⁹⁴ ASEM was conceived by Singapore and France in 1994.

summits.⁹⁵ Third, the process was very informal. The instruments for implementing the collective agreements were the (economic and political) protocols. Protocols implied simple procedures if compared to the Cooperation Agreements which needed the European Parliament's authorisation. For the European Union, ASEM constituted a new structure and a new approach. Few choices were available to the EU in its attempt to continue the dialogue with the Southeast Asian states, and the Union welcomed the ASEM process.⁹⁶ Yet, the EU's persistence to coerce on Myanmar was expressed in the Council's declaration that its membership of ASEAN did 'not automatically imply membership of ASEM'.⁹⁷ This position created further controversy, and Myanmar had to wait until 2004 for a solution. At the first meetings of Foreign Ministers in the ASEM framework (ASEM1 in Bangkok on 1-2 March 1996, and ASEM2 in London on 3-4 April 1998), in Bangkok, the Chairman's Conclusive Statement laid emphasis on some general issues ('cooperation in the field of human resources development' was an important component of Asia-Europe ties) and, in London, the Chairman's declaration included a seminar on labour relations among the new initiatives to be taken in that year.⁹⁸ Rejecting censure of Myanmar's regime from its EU dialogue partner, in none of ASEM's conclusive official documents did ASEAN make explicit reference to Myanmar or to the situation there.

Burmese perceptions on sanctions and beyond

What are the perceptions of the European Union and its policy among the people in Myanmar? Burmese perspectives on the EU and its action are hard to qualify. Some among civil society in recent interviews have stated that they have no idea what the European Union is, while others preferred to ignore it, taking the view that the Burmese people have not been helped but penalised. Myanmar's development has been curbed: 'how could we have a positive conception of the EU?' If there was an idea of restraining the junta from acquiring arms, time had been lost due to the embargo because the SLORC/SPDC had obtained weapons through Singapore, China and Russia, to mention only a few providers.⁹⁹ A 'well-informed' Burmese citizen dismissed sanctions. The military in power turned the circumstance of being countered by external forces to its advantage. Domestically, the junta defied the situation, and strengthened the significance of the principle of non-interference in Myanmar's affairs, reinforcing the argument that Myanmar's sovereignty was a value to be respected.¹⁰⁰ A similar judgment concerning sanctions upheld that the SPDC was disturbed, but not to the extent intended by the sanctions. 'Restrictive actions' built up the junta's attention to privilege its neighbourhood, and at the same time secured its protection within the region.¹⁰¹ On the extent of the preoccupation with the economic restraint, some responses indicated that it was true that poverty had increased nationwide and that the local industries had been weakened. There was no alternative but to accept this and, anyway, people knew that the country was rich in natural resources. The extraction sector was trading well, particularly through Thailand. These resources would have been further exploited in future and people believed that a better future existed.¹⁰² Others insisted that the hardship (i.e. sanctions) created by the EU for the junta had no support in the region. At times, there had been (political) adversity to overcome with certain states, but some other countries were very supportive and helped to maintain balanced relations. The junta also operated in the region's interest (i.e. ASEAN), not over-reacting to criticism when this occurred. The SPDC has understood that the neighbouring countries were under intense international pressure, which was negatively affecting their project of deepening integration.¹⁰³ Not everybody in Myanmar supported Su Kyi. There was some indifference if not opposition against the NLD's leader. One of the areas where such attitudes were unveiled was the region around Patheingyi in Mon State, which has been severely hit by Cyclone Nargis, in May 2008, during which 140,000 died.¹⁰⁴ With regard to Myanmar's unexpected turn to the West, the interviews with Burmese people and ASEAN leaders suggested that it was not the constrictions imposed by the Union (and by other international actors) but rather the reality of the hatred for China within Myanmar that proved the driving force. China exploited many natural resources and abused the conditions of poverty and

⁹⁵ Brettner-Messler (2012) *op. cit.*, 145. See ASEM InfoBoard, Overview, Main Pillars, ASEM Ministerial Meetings. Available at: <http://www.aseminfoboard.org>

⁹⁶ Forster (1999), *op. cit.*, 752-754; Cameron (2013), *op. cit.*, 37.

⁹⁷ 2019th Council Meeting – General Affairs - Luxembourg, 26 June 1997, *op. cit.*

⁹⁸ <http://www.aseminfoboard.org/summit-statement.html>

⁹⁹ Interview with a Burmese academic, Yangon, January 2013.

¹⁰⁰ Interviews with members of civil society, Myanmar Book Centre, Yangon, January 2013.

¹⁰¹ Interview with a South Korean diplomat, Yangon, January 2013.

¹⁰² Interview with an officer of a governmental agency, Nyaungshwe, Shan State, January 2013.

¹⁰³ Interview with an academic, Myanmar Book Centre, Yangon, January 2013.

¹⁰⁴ Interview with a member of the NLD near Patheingyi in Mon State, January 2013.

underdevelopment. Irritation at the encroaching role played by China in Myanmar and the desirability of new partners contributed to make the impetus for change and reform.¹⁰⁵

EU behaviour and statements

What does the observation of EU behaviour within the EU-ASEAN interaction convey with regard to Myanmar? During its 1997 breakpoint with ASEAN over the Burmese accession, the European Union issued a declaration intended to soothe the crisis: ‘The EU looks forward to continued close cooperation between our two respective regions [and] ... would like ... to re-affirm its commitment to the EU-ASEAN dialogue’.¹⁰⁶ Again, in that same year after firmly countering Yangon’s association, the EU not only accepted it, but also stated that ‘the Council agreed that the opportunity of the EU-ASEAN dialogue should be used to discuss the situation in Burma/Myanmar’ (p. 8).¹⁰⁷ Hence the Council laid emphasis on the welcoming occasion to reinforce the dialogue with the Southeast Asian countries via this new commitment regarding Myanmar. This is a new position describing the EU-ASEAN relationship *vis-à-vis* Myanmar. More evidence emerged due to the EU’s attitude to the Asia-Europe Meeting’s new framework of resuming the dead consultations. In a Commission’s document, in 2001, the appeal of ASEM was put into focus: ‘The value of the ASEM process will be further enhanced through a broader participation’.¹⁰⁸ The EU appears keen to avoid that the Myanmar issue destabilise its relations with ASEAN.

1998-2006: The EU moderates criticism of Myanmar, and ASEAN distances itself from rejecting censure of the regime by its EU dialogue

In the aftermath of the problems arising from the 1997 dialogue, a combination of external influences and domestic dynamics contributed towards changing both the EU and ASEAN’s attitude towards Myanmar. Firstly, as early as 1994, the EU had expressed an intention to strengthen the Union’s ties with ASEAN (p. 4), an objective that remained valid. It had decided ‘to accord Asia a higher priority than [was] at present the case’ (p. 4). An important component of the EU’s position was the pursuit of ‘new proactive strategies towards Asia’ (p. 17), and this combined well with its perceived need ‘to maintain its leading role in world economy’ (p. 4).¹⁰⁹ These aspects reconfirmed the EU’s positive stance on ASEAN, and militated against a rigid approach to Myanmar within the Association. The new position resulted in the Council attempting to start using the suspension of sanctions (April 2003), rather than the sanctions themselves, as a way to obtain compliance,¹¹⁰ developing a two-pronged strategy by employing positive and negative actions. Secondly, the Asian financial crisis of 1997-98 led ASEAN members to question the ability of their group to provide a solution to several problems, throwing the Association’s collective identity in disarray.¹¹¹ Indonesia, and particularly Thailand and the Philippines increasingly criticised ASEAN’s practice of refraining from interference, and called for a policy of ‘flexible engagement’. The latter intended to allow ASEAN to address the regional crisis caused by the domestic situation. The de-legitimation of the argument of ‘good government without democracy’, which was central to ASEAN’s policy, contributed to the fall of the Suharto regime in Indonesia in 1998 and also to its democratisation. These developments forced a revision of the non-interference dogma,¹¹² and also restructured the field of the human rights discourse among ASEAN countries. Hence, democratic and humanitarian issues’ interactions became possible also between ASEAN and the EU. The Association’s reaction to the consequences of the economic crisis supported a new input on integration (ASEAN vision 2020 issued in 1997, Hanoi Plan of Action in 1998). Thirdly,

¹⁰⁵ Interviews with Burmese people, British Council, Yangon centre, January 2013, and with ASEAN leaders, Macau, May 2013.

¹⁰⁶ ‘Declaration by the European Union on the accession of Cambodia, Laos and Burma/Myanmar to ASEAN’, Luxembourg, 2 June 1997, 8637/97 (Presse 189) E/59/97.

¹⁰⁷ 2019th Council Meeting – General Affairs - Luxembourg, 26 June 1997, *op. cit.*

¹⁰⁸ Commission Communication on ‘Europe and Asia: A Strategic Framework for Enhanced Partnerships’ COM(2001) 469 final, Brussels 4 September 2001, *op. cit.*

¹⁰⁹ Communication of the Commission to the Council, COM(94)314, Brussels, 13 July 1994, *op. cit.*

¹¹⁰ Portela (2010), *op. cit.*, 82.

¹¹¹ Jetschke, A. (2013) ‘Regional Integration Support by the EU in Asia: Aims and Prospects’, in Christiansen *et al.*, *op. cit.*, 226-243, 233. Jetschke quotes Ruland, J. (2000) ‘ASEAN and the Asian Crisis: Theoretical Implications and Practical Consequences for Southeast Asian Regionalism’, *The Pacific Review*, Vol. 13, No. 3: 421-451.

¹¹² Though taking distance from the risk of diffuse pro-democracy changes in the region.

some understanding between the EU and ASEAN on Myanmar intended to induce the SPDC to temper its repressive behaviour towards the NLD and its followers, and accept the constitution of a EU Troika to assess improvements in the country in this regard.¹¹³ To balance this concession, the EU was to lessen its inflexible policy on the SPDC. All of these developments encouraged both the EU to tone down its criticism of Myanmar and ASEAN to distance itself from rejecting censure of the regime by its EU partner.¹¹⁴

Also, in Myanmar, matters were evolving. In particular, from 2000-2002, the desire to improve relations with the wider international community prevailed, with a decision that was supported by the former prime minister (General Khin Nyunt) and his readiness to approach the political stalemate with the NLD and its general secretary.¹¹⁵

Changes in action?

Signs of the EU's weakening criticism of Myanmar were provided by the opening of a Burmese diplomatic representation in Brussels around the year 2000, and by the Council introduction of several measures on democratisation assistance. At the same time, the Council reinstated sanctions.¹¹⁶ Also, ASEAN modified its language at ASEM3, held in Seoul in 2000,¹¹⁷ in the Chairman's Statement (where 'leaders committed themselves to promote and protect all human rights, including the right to development, and fundamental freedoms, bearing in mind their universal, indivisible and interdependent character'¹¹⁸ as expressed at the World Conference on Human Rights in Vienna' (paragraph 8)). Myanmar was not cited, but problems similar to those in Myanmar were mentioned. Again, no particular indication concerning that country was given by ASEAN in ASEM4's conclusive Chairman's Statement in 2002.¹¹⁹ The following EU's policy consistent with the new strategy of two-level (positive and negative) action, developed in 2003; before that date, the EU extended its penalising measures.¹²⁰ In April 2003, the EU tried to suspend sanctions¹²¹ until October 2003, and pledged to refrain from re-imposing the measures if 'substantive progress towards national reconciliation, [together with] the restoration of democratic order' had been made by then.¹²² Shortly afterwards, a new confrontation (the Depayin incident) played against the EU's opening, and the Council negated the suspension before the announced deadline.¹²³

Confirming the changes: The Depayin incident and beyond

An attitudinal change among the Association towards the military junta was induced by the events of 30 May 2003 (attack on the supporters of the opposition leader and Suu Kyi's reinstated house arrest). The Association was now openly speaking out about transition in Myanmar in the Joint Communiqué of ASEAN ministers of June 2003, delivered in Phnom Pen (see note).¹²⁴ 'Democracy' was a new word

¹¹³ deFlers (2010), *op. cit.*, 6. Jones, L. (2008) 'ASEAN's Albatross: ASEAN's Burma Policy, from Constructive Engagement to Critical Disengagement', *Asian Security* Vol. 4, No. 3: 271-293, 277.

¹¹⁴ Manea (2008) *op. cit.*, 386, 391; (2009) *op. cit.*, 39.

¹¹⁵ During that short period, the junta exhibited more cooperative behaviour as in relations with non-state actors, such as allowing the International Committee of the Red Cross as well as Amnesty International to visit detainees. Haacke (2007) 'Introduction', *op. cit.*, 10.

¹¹⁶ The EU expanded visa bans, and imposed a freezing of assets on the blacklisted individuals. Council of the European Union, Council Common Position (2000/346/CFSP) of 26 April 2000.

¹¹⁷ Third ASEM meeting in Seoul on 20-21 October 2000.

¹¹⁸ These concepts (which were included in the Vienna Declaration of 25 June 1993) were going to influence ASEAN's international action, its regional policy in Southeast Asia and interaction among its members.

¹¹⁹ Fourth Asia-Europe Meeting in Copenhagen on 23-24 September 2002.

¹²⁰ The EU reconfirmed sanctions and prolonged the list of bans and of disciplined individuals in: Council of the European Union, Council Common Position (2001/757/CFSP) of 29 October 2001, and Council of the European Union, Council Common Position (2002/831/CFSP) of 21 October 2002.

¹²¹ Sanctions were visa ban, asset freeze, and prohibition of technical training and assistance.

¹²² Council of the European Union, Council Common Position (2003/297/CFSP) on Burma/Myanmar, 28 April 2003.

¹²³ Council of the European Union, Council Common Position (2003/345/CFSP) of 20 June 2003.

¹²⁴ 'We discussed the recent political developments in Myanmar, particularly the incident of 30 May 2003. (...) we urged Myanmar to resume its efforts of national reconciliation and dialogue among all parties concerned leading to a peaceful transition to democracy. We welcomed the assurances given by Myanmar that the measures taken following the incident were temporary and looked forward to the early lifting of restrictions placed on Daw Aung

which entered the Association's official documents. The junta's domestic conduct and particularly the treatment of Suu Kyi now became an 'issue' in ASEAN's relations with Myanmar. The SPDC antagonised several ASEAN member states either because they were trying to sharpen the new democratic credentials, because they were distracted from deepening integration, or due to the increasing external pressure upon them regarding Myanmar's observance of the international demands. The attitudinal change was confirmed by ASEAN's members, notably by Malaysia's Prime Minister (a 'staunch opponent of pressure on humanitarian issues'), who argued that Myanmar should be expelled from ASEAN if it 'did not release Suu Kyi and another 1,400 political prisoners'.¹²⁵ Very distinctively, the Thai Prime Minister 'offered to mediate' between the junta and the broader regional and international community, and discuss a 'roadmap toward democracy' by bringing together all of the countries concerned.¹²⁶ Also, the media reacted to the incidents (by calling on 'every ASEAN leader to send a strong individual message to Yangon'),¹²⁷ as well as advocacy groups and the ASEAN Inter-Parliamentary Myanmar Caucus (AIPMC, that started to work publicly in 2004), which spoke out strongly against Myanmar.¹²⁸

Observing ASEAN behaviour

The principle of 'performance legitimacy' was thoroughly reconsidered by ASEAN leaders in the Bali declaration (Concord II) of October 2003,¹²⁹ and soon afterwards in the ASEM5 Chairman's Statement in Hanoi of October 2004, where they made recommendations to the SPDC.¹³⁰ The Hanoi (ASEM5) 2004 statement was the most complete declaration that ASEAN issued regarding expectations related to Myanmar.¹³¹ The precursor to this shift has been noticed in 2000 (in Seoul, with the insertion of the 'right to development and fundamental freedom' issue in the intra-regional discourse as well as in the wider discourse with the ASEM partners), and subsequently became more visible in 2003 (in the Phnom Pen Joint Communiqué asking Myanmar to open up a dialogue leading to a 'peaceful transition to democracy'), and took an even more important turn in 2004 (in Hanoi, by suggesting measures that Myanmar should follow). ASEAN's principle of non-interference in its members' affairs was relatively relaxed at that point (or, as Haacke put it, it qualified as 'enhanced interaction', explaining it as a public articulation of ASEAN's shared concerns).¹³² The substance of the Hanoi message was new, with all stakeholders engaged in Myanmar being invited to join forces to guarantee positive consequences for reconciliation. It gave weight to the NDL, its leader and to other movements which opposed the junta, and indicated that there were forums to be freed up for a 'genuine debate'. These positions were strengthened by the emphasis on the SPDC needing to 'lift restrictions' on persons and parties, 'in accordance with the assurances' previously given.

Not so 'moderated' and not so 'accommodating': Myanmar's accession to ASEM in 2004

The EU's obstinacy to sanction Yangon and ASEAN's un-accommodating of the EU position resurfaced. Together with expressing concern about the SPDC, the 2004 Hanoi (ASEM5) Statement

San Suu Kyi and the NLD members'. ASEAN ministers Joint Communiqué at their 36th Ministerial Meeting in Phnom Pen, on 17 June 2003.

¹²⁵ Myanmar (Burma): Year In Review 2003. Available at:

<http://www.britannica.com/EBchecked/topic/916894/Myanmar-Burma-Year-In-Review-2003>

¹²⁶ Haacke (2007) 'Myanmar and ASEAN', *op. cit.*, 52.

¹²⁷ Lim Kit Siang, from the Malaysian Democratic Action Party. Available at: <http://dapmalaysia.org/all-archive/English/2003/sep03/lks/lks2650.htm>

¹²⁸ AIPMC was constituted by regional lawmakers, from both ruling and non-ruling political parties across Southeast Asia, working towards peace in Myanmar. Available at:

<http://www.insightonconflict.org/conflicts/burma/peacebuilding-organisations/aipmc/>

¹²⁹ 'The ASEAN Security Community is envisaged to ... ensure that countries in the region live ... in a just, democratic and harmonious environment' (p. 3). Declaration of ASEAN Concord II, in Bali on 7 October 2003, www.icnl.org/research/library/files/Transnational/2003Declaration.pdf See also Hughes (2007), *op. cit.*, 322.

¹³⁰ The leaders 'encouraged all stakeholders in [Myanmar] to work together to ensure a successful outcome of the ongoing national reconciliation process. The National Convention should be an important element in the national reconciliation and democratization process and a forum for a genuine open debate with the participation of all political groups in the country'. Fifth Asia-Europe-Meeting Chairman's Statement, Hanoi, 7-9 October 2004. Available at: <http://www.mofa.go.jp/policy/economy/asem/asem5/index.html>

¹³¹ ASEM in its Tenth Year', European Background Study, University of Helsinki, 2006, *op. cit.*

¹³² Haacke (2007) 'Myanmar and ASEAN', *op. cit.*, 43. There has been an intense debate on 'when' and 'whether' the non-interference principle has been abandoned. Lee Jones (2008) argued that ASEAN's policy on Myanmar has never been one of strict non-interference.

‘warmly welcomed the Union of Myanmar’ at the Asia-Europe Meeting (p. 10). This situation complicated EU-ASEAN relations. The EU’s opposition to incorporate Myanmar into ASEM was expressed in the 2003 Commission Communication.¹³³ Diplomatic crises followed, when several ASEAN ministers refused to participate in summits from which Myanmar had been banned by the EU, and two meetings of ASEM finance ministers were cancelled.¹³⁴ On ASEAN’s side, there had been preparatory talks on its admittance prior to the Hanoi summit. The Indonesian Foreign Minister (Hassan Wirajuda) pretended to instruct that no political conditions had to be attached, and that he would have blamed the EU if the ASEM process collapsed over Myanmar. The Cambodia Prime Minister (Hun Sen) affirmed that his country would not have joined ASEM without the other two new ASEAN members (Laos and Myanmar) being accepted at the same time. Before the Hanoi summit, in August 2004, Myanmar’s Prime Minister (General Khin Nyunt) met Vietnam’s Prime Minister (Phan Van Khai) to discuss Yangon’s participation. The meeting was attended by Hanoi-based ambassadors and ASEAN members’ diplomats, all demonstrating the extent of ASEAN’s great solidarity.¹³⁵ On the EU side, the Council conceded the presence of Myanmar’s representatives ‘where a political dialogue [was] conducted that directly promote[d] ... the rule of law in Burma/Myanmar’ (Paragraph 5, Art. 5). At the same time, it expanded the sanctions (see note).¹³⁶ Why were ASEAN members tolerating such a pariah state to the point of offering inclusion at the Asia-Europe Meeting after the uneasiness about Yangon had been demonstrated during the Depayin repression? It seems a paradox, although several reasons supported that decision, primarily ASEAN’s determination to build a completely inclusive Southeast Asian community. ASEM was an emanation of the Association and was seen as consolidating its existence. Secondly, there was ‘the conviction that China’s rise could positively shape East Asia only if successful counterbalanced’¹³⁷ and, thirdly, the preoccupation that Myanmar could definitely turn to China as an alternative source of support. Myanmar was by now, 2004, firmly integrated into regional international society.¹³⁸

The limited ‘openness’ with regard to Myanmar

Unfolding the two-pronged approach, the Council also promoted confidence-building measures aimed at giving strength to the opposition and actors at the local level, innovatively seeking to elude the involvement of governmental authorities.¹³⁹ Its encouragement of positive measures was sustained by the European Commissioner’s (Ferrero-Waldner) announcement that the EU ‘would engage in a critical dialogue with the regime’. The dialogue was an attempt to press for reforms.¹⁴⁰ The European limited ‘openness’ on Myanmar had not impeded the Council from opposing the prospect of the SPDC taking its turn as chair of the ASEAN Standing Committee in 2006-7. Adducing to the lack of ‘an inclusive democratization process’, the Council re-imposed sanctions and also proposed a partial suspension.¹⁴¹ ASEAN members similarly claimed that the ‘road map towards democracy’ (originally

¹³³ ‘Both sides [the EU and ASEAN] will strive to avoid letting the question of the participation of Burma/Myanmar endanger the ASEM process itself’ [p. 13]). Commission of the European Communities, ‘Communication from the Commission, A new partnership with South East Asia’, Brussels, 9.7.2003, COM(2003)399 final, *op. cit.*

¹³⁴ Smith, K. (2006) *op. cit.*, 165.

¹³⁵ *The Vietnam News*, 9 August 2004. Fitriani (2013) *op. cit.*, 5-8.

¹³⁶ Sanctioning included the suspension of non-humanitarian aid, embargo on arms and military equipment; visa ban and freezing of assets of members of the junta and high-ranking military officers and authorities in the tourism sector; investment and loan ban, including participation in state-owned enterprises; high-level bilateral governmental visits’ suspension; ban on the attachment of military personnel to the diplomatic representation of Myanmar in EU member states, and on the attachment of military personnel to diplomatic representations of the member states in Myanmar. An annex listed the individuals affected by the ban and assets freeze. Council of the European Union, Council Common Position 2004/423/CFSP of 26 April 2004 renewing restrictive measures against Burma/Myanmar, L 125/61.

¹³⁷ Counterbalanced by ASEAN increased integration. Manea (2013) *op. cit.*, 326.

¹³⁸ Hughes (2007) *op. cit.*, 323.

¹³⁹ The measures concerned non-humanitarian aid for projects defined in consultation with democratic groups, including the NLD and NGOs, and initiatives in support of democracy, poverty alleviation, health and basic education. Council of the European Union, Council Common Position 2004/423/CFSP of 26 April 2004 renewing restrictive measures against Burma/Myanmar, L 125/61, *op. cit.*

¹⁴⁰ Portela (2010) *op. cit.*, 84-5. Kubosova, L. (2005) ‘The EU shifts its strategy towards Burma’, EUObserver.com, 1 February 2005.

¹⁴¹ Council of the European Union, Council Common Position (2005/340/CFSP) of 25 April 2005 and Council Common Position (2006/318/CFSP) concerning renewing restrictive measures against Burma/Myanmar, 27 April 2006. Common Position (2006/318/CFSP) spells out that: ‘in the event of a substantial improvement in the overall

proposed by the Thai Prime Minister in 2003) made no visible progress, and opposed Myanmar's chairmanship.¹⁴² The Philippines, Singapore, Indonesia, and Malaysia also reacted individually, with the latter stressing that 'democracy must be realised' in Myanmar.¹⁴³ The SPDC decided to act in the interest of ASEAN, which was under external pressure over Myanmar. It employed the justification that it wished to focus on the 'ongoing national reconciliation and democratization process',¹⁴⁴ thus placing emphasis on Myanmar's approach to exercise its own sovereign decision and contrast outside interactions, consistently with its constitution.¹⁴⁵

Departure from non-interference

By now, the ASEAN members had been openly discussing the situation in Myanmar among themselves as well as with the European Union and their ASEM partners, as reflected in their official documents. They achieved an even greater change in attitude; they expressed the aspiration that Myanmar, as an ASEAN member, might attract the interest of other actors external to the region.¹⁴⁶ Their meetings highlighted their arguments.¹⁴⁷ The SPDC's non-compliance was barely defended.¹⁴⁸ In particular Thailand's Foreign Minister (Surin Pitsuwan) encouraged the move from the norm of non-interference with internal affairs towards a policy of flexible engagement with Myanmar.¹⁴⁹ This called for growing interaction with the Burmese leaders, particularly when they took steps towards reform, and aimed to build people-to-people bridges.¹⁵⁰ Reference to Myanmar in ASEAN and ASEM official documents progressively shifted from a staunch defence of the non-interference principle to mild pressure for reform. This change was largely due to the realization that Myanmar affected ASEAN's international prestige and so, by extension, its integration project. The Association's member states were now focused on transforming their group through the preparation of the ASEAN Charter, which was going to establish ASEAN as a legal entity, modelled on the European Union. Members of the Eminent Persons Group and the High Level Task Force in charge of drafting the Charter had contact with Brussels, and the EU provided assistance with the drafting. The Philippines declared that, were Myanmar not to restore democracy and free Suu Kyi, they would not ratify the Charter.¹⁵¹

An analysis of EU behaviour

Through both the 2001 and 2003 Commission's Communications, the European Union declared its 'strategic' intentions regarding Southeast Asia, and specifically of raising the EU's political presence across that region to a level commensurate with the growing global weight of an enlarged EU. In reality, the EU's political profile appeared less influential, at least in the terms enunciated by the Commission. Yet, some efforts were made to respond to the 'key priority' of further strengthening the long-standing partnership with ASEAN.¹⁵² Attempting the suspension of sanctions and compromising on Myanmar by opening up a diplomatic representation in Brussels were additionally aimed at revitalizing relations with ASEAN. This is a new feature characterizing the EU-ASEAN relationship with regard to Myanmar. Myanmar appears to offer occasions to the EU for re-invigorating its ties to

political situation in Burma/Myanmar, the suspension of these restrictive measures and a gradual resumption of cooperation with Burma/Myanmar will be considered, after the Council has assessed developments'.

¹⁴² ASEAN meeting of Foreign Ministers in Cebu, in the Philippines in April 2005.

¹⁴³ For instance, the National Convention draft of a new constitution excluded nine political parties representing 91 per cent of parliamentary seats. Ibrahim, Z. (2005) 'Turning the screws on Myanmar', AIPMC (ASEAN Inter-Parliamentary Myanmar Caucus), 28 December. <http://www.aseanmp.org/?p=958>

¹⁴⁴ Haacke (2007) 'Myanmar and ASEAN', *op. cit.*

¹⁴⁵ <http://www.scribd.com/doc/7694880/Myanmar-Constitution-2008-English-version>

¹⁴⁶ Joint Communiqué of the 39th ASEAN Ministerial Meeting of 25 July 2006, Kuala Lumpur.

¹⁴⁷ They looked forward to seeing 'tangible progress that would lead to peaceful transition to democracy'. This implied the 'release of those placed under detention' in order to develop an 'effective dialogue with all parties concerned'. *Ibid.*

¹⁴⁸ The Chairman's Statement (ASEM6) called for a 'transition via an inclusive process to a democratic government in line with the assurances given by Myanmar at the ASEM5 Summit', in Hanoi in 2004. Sixth Asia-Europe Meeting in Helsinki (ASEM6), on 10-11 September 2006.

¹⁴⁹ For a discussion on the transformation, see: Jones, L. (2008), *op. cit.*, 275-7.

¹⁵⁰ 'Thailand's Surin Pitsuwan praised as term as ASEAN chief ends' posted at The Royal Thai Embassy Washington DC, 7 January 2013. Available at: <http://www.visetkaew.com/wp/2013/01/07/thailands-surin-pitsuwan-praised-as-term-as-asean-chief-ends/>

¹⁵¹ Brettner-Messler (2012) *op. cit.*, 146. deFlers (2010), *op. cit.*, 6-7.

¹⁵² Commission Communication on 'Europe and Asia: A Strategic Framework for Enhanced Partnerships' COM(2001) 469 final, Brussels 4 September 2001, *op. cit.*

ASEAN. The consideration that ‘Southeast Asia was set to become one of the most dynamic growth areas in the world economy’ and that ‘closer relations were an economic imperative’¹⁵³ contributed towards backing a more conciliatory policy on Myanmar via EU-ASEAN relations. The EU continued to be concerned that interaction with ASEAN with regard to Myanmar should not weaken its links with the Association.

2007-2012: The EU employs targeted sanctions and limited development cooperation while ASEAN encourages better governance

In 2007, the autumn pro-democracy demonstrations and repression (the Saffron uprising) laid bare ASEAN’s impatience with the military junta. ASEAN agreed a joint statement with the European Union.¹⁵⁴ In the Council Conclusions of October 2007, the European Union warned the SPDC that a return to the situation as it was prior to the recent demonstrations was both unacceptable and unsustainable.¹⁵⁵ Already by September, the EU Commissioner (Viviane Reding) had insisted with the European Parliament that Yangon’s ‘military regime was a threat to the people of Burma and the region’.¹⁵⁶ The ASEAN-EU joint statement was non-binding and established no deadlines by which the SPDC must comply. Myanmar’s media, *The Irrawaddy*, argued that the junta’s strong man (General Than Shwe) knew ‘how to play in a sophisticated way with a weak organisation like ASEAN’.¹⁵⁷ By contrast with ASEAN’s alleged low reputation, Singapore’s Foreign Minister (George Yeo) indicated that ‘ASEAN planned to use its moral authority to get all of the political parties in Burma to engage in a genuine dialogue’.¹⁵⁸ Singapore held ASEAN’s chair and was in a position to seek to influence others’ views. It clarified ‘ASEAN’s role and stand’ on Myanmar.¹⁵⁹ The ASEAN members were now striving ‘to prevent the Myanmar issue from obstructing’ their integration efforts (the ASEAN Charter and the establishment of the ASEAN Community). In a letter to Than Shwe, Singapore’s Prime Minister (Lee Hsien Loong) expressed the regional leaders’ concern.¹⁶⁰ Myanmar’s Prime Minister, Thein Sein, replied that the Burmese situation was a ‘domestic affair’, reconfirming the junta’s traditional code of conduct. These matters were discussed at the 13th ASEAN Summit, in Singapore, and were highlighted in the Chairman’s Statement (paragraph 16). The ASEAN member states also reacted individually to the Saffron incidents. Singapore’s senior minister (Goh Chok Tong) threatened to cease investment in Myanmar, regarding political reform as a precondition for their mutual economic interaction to continue.¹⁶¹ The Philippines’ Senate adopted a resolution urging the EU and ASEAN to end the SPDC’s repression of people.¹⁶² Also, the ASEAN Inter-Parliamentary Myanmar Caucus (AIPMC, through its President, Zaid Ibrahim) called for the expulsion of Myanmar from ASEAN.¹⁶³ The European Union acknowledged the changes occurring in ASEAN’s attitudes, the condemnations of the junta’s conduct, and the Association’s efforts to influence the Burmese authorities to embrace the transition to democracy;¹⁶⁴ the whole pointing at the novel stance of encouraging Myanmar’s better governance. The EU developed a strategy of targeted sanctions

¹⁵³ Commission of the European Communities, ‘Communication from the Commission, A new partnership with South East Asia’, Brussels, 9.7.2003, COM(2003)399 final, *op. cit.*

¹⁵⁴ The statement urged Myanmar government to free all political prisoners.

¹⁵⁵ Council of the European Union, Council Conclusions on Burma/Myanmar, 2824th General Affairs and External Relations Council Meeting, Luxemburg, 15-16 October 2007.

¹⁵⁶ ‘EU calls rights violation in Myanmar a scandal’, 6 September 2007, Reuters. Available at:

<http://www.aseanmp.org/?p=280>

¹⁵⁷ ‘Myanmar playing “tricks” with the international community’, *Asia News*, 22 November 2007. Available at:

<http://www.asianews.it/news-en/Myanmar-playing-“tricks”-with-the-international-community-10873.html>

¹⁵⁸ ‘ASEAN to use moral authority to get Myanmar parties to talk: George Yeo’, CAN (20 October 2007).

Alternative Asean Network on Burma campaigns. Available at:

<http://www.altsean.org/Research/Saffron%20Revolution/SRInternational1.php>

¹⁵⁹ Singapore requested to lift restrictions on Suu Kyi, release all political detainees, and work towards a peaceful transition to democracy and address the economic difficulties faced by people. Chairman’s Statement of the 13th ASEAN Summit, ‘One ASEAN at the Heart of Dynamic Asia’, Singapore, 20 November 2007.

¹⁶⁰ CAN (1 October 2007) PM Lee expresses deep concern ...; Available at:

<http://www.altsean.org/Research/Saffron%20Revolution/SRInternational1.php>

¹⁶¹ Haacke (2010) *op. cit.*, 163.

¹⁶² Senate of the Philippines Resolution No. 19 adopted September 26, 2007.

¹⁶³ ASEAN should expel M. if violence continues, AIPMC, 28 September 2007. Available at:

<http://www.aseanmp.org/?p=1222>

¹⁶⁴ Council of the European Union, Council Conclusions on Burma/Myanmar, 2824th General Affairs and External Relations Council Meeting, Luxemburg, 15-16 October 2007, *op. cit.*

combined with a policy of a partial trade embargo and limited development cooperation.¹⁶⁵

EU's targeted policy and development cooperation

In the new combined policy, the Council increased its pressure on the SPDC (see note),¹⁶⁶ and agreed on measures directed at state-owned industries and in particular at financial and technical assistance to enterprises.¹⁶⁷ It also introduced a ban on the creation of joint ventures with blacklisted establishments, which included over 1,200 Burmese units.¹⁶⁸ In parallel, the EU confirmed the continuation of the substantial humanitarian aid programmes.¹⁶⁹ The European Commission (fully in line with the EU's policy of 1996, strengthened and extended several times)¹⁷⁰ released the Country Strategy Paper on Myanmar, in 2007, with an indicative budget of €65 million. The Strategy Paper provided the framework for EC assistance for the period 2007-2013. It resulted from the 'European Consensus on Development', agreed on 20 December 2005 between the European Commission, the European Parliament and the EU Council, which identified poverty reduction as the main priority of EC development assistance. The Strategy Paper concentrated on two focal sectors, education and health, and announced flanking actions in support of uprooted populations that were to be financed from relevant thematic programmes (p.3). One of the objectives of the policy of dialogue with Myanmar was 'strengthening civil society' and intensifying 'community participation' in order to increase local non-state actors' contribution to the development process' to take place in Myanmar (p.19).¹⁷¹ A former EU Special Envoy for Myanmar (2007-2011), interviewed by the author, expressed a positive judgement of the projects carried out by the Commission in 2007 '... because they engaged local people in collective activities, aiming at building trust and enhancing the interactions among communities ...'.¹⁷² The EU also tried to promote negotiations on a EU-ASEAN Free Trade Agreement (FTA), in 2007, but these failed to materialise partially due to the political instability and related problems in Myanmar.¹⁷³

ASEAN (and the EU) encouraging better governance

In 2007, ASEAN saw no progress in the SPDC's governance, no dialogue with the political parties in Burma, neither political reforms nor a transition to democracy, all of which had been demanded at the Association's summit in Singapore that year. In Beijing, in 2008, in the ASEM framework, ASEAN leaders encouraged the 'government to engage all stakeholders in a inclusive political process in order to achieve national reconciliation and economic and social development'. They also requested the lifting of restrictions from the political parties and freeing those under detention (paragraph 12).¹⁷⁴ This attitude of trying to convince the SPDC to embrace changes was developed further at the 14th ASEAN's summit in Thailand ('ASEAN Charter for Asian Peoples') in February/March 2009. In the aftermath of the Depayin incidence in 2003, the junta embarked on a 7-step Roadmap to Democracy

¹⁶⁵ Portela (2010) *op. cit.*, 87. As the EU explains, 'until 2004, the EU Common Position limited EC assistance to Burma/Myanmar to humanitarian aid. As the restrictive measures foreseen in the Common Position were never intended to hurt the population of the country, and in view of the deteriorating economic and social situation, the EU undertook a revision of the Common Position in October 2004. The current version opened the possibility for a more systematic approach to assistance in view to tackle the deep-rooted structural poverty in the country while continuing to invoke the government's responsibility to attain the UN Millennium Development Goals (p. 20-1). The EC/Burma/Myanmar Strategy Paper (2007-2013), *op. cit.*

¹⁶⁶ Pressure consisted in bans on export, import and investment in the sectors of logs, timber and mining of metals, minerals, and precious and semi precious stones. Council of the European Union, Council Conclusions on Burma/Myanmar, 2824th General Affairs and External Relations Council Meeting, Luxembourg, 15-16 October 2007, *op. cit.*

¹⁶⁷ The focus was on enterprises operating in logs, timber, mining of metals, minerals, precious and semi precious stones.

¹⁶⁸ Council of the European Union, Council Common Position 2007/750/CFSP of 19 November 2007 amending Common Position 2006/318/CFSP renewing restrictive measures against Burma/Myanmar.

¹⁶⁹ Council of the European Union, Council Conclusions on Burma/Myanmar, 2824th General Affairs and External Relations Council Meeting, Luxembourg, 15-16 October 2007, *op. cit.*

¹⁷⁰ Council of the European Union, Council Common Position (96/635/CFSP) of 28 October 1996, defined by the Council on the basis of Article J.2 of the Treaty on European Union, on Burma/Myanmar, *op. cit.*

¹⁷¹ The EC/Burma/Myanmar Strategy Paper (2007-2013), *op. cit.*

¹⁷² Interview conducted in January 2013, in Turin, with a former EU Special Envoy for Myanmar from 2007 to 2011.

¹⁷³ See deFlers (2010) *op. cit.*, 7, note 20. Lim, P. (2012). ASEAN's relations with the EU: obstacles and opportunities, *European Union External Affairs Review*, vol. 2 (1), pp. 46-58. Kristensen, S. B. (2013) 'Myanmar in the EU-ASEAN Relationship', Event Report, European Institute for Asian Studies, Brussels, 5 February.

¹⁷⁴ Chair's Statement of the Seventh Asia-Europe Meeting (ASEM7), Beijing, 24-25 October 2008.

(initially involving the reconvening of the National Convention). Already, by 2005, its failure to set a clear timetable for implementing the plan caused some erosion of the goodwill towards Myanmar in many Southeast Asian states.¹⁷⁵ At the Thailand summit, ASEAN officials felt that they had to encourage the Burmese government to strengthen ‘national unity’ and contribute to ‘peace and prosperity’. A decisive call for the ‘participation of all political parties’ (paragraph 42)¹⁷⁶ and for ‘free and fair’ general elections in 2010 respectively reinforced ASEAN’s and ASEM’s request for a shift in Myanmar’s conduct of domestic affairs.¹⁷⁷ ASEAN and EU’s demand that the SPDC engage in promoting consensus was heightened in reaction to the court verdict passed on Suu Kyi, in August 2009, which added 18 months to her house arrest. The Association leaders voiced their desire that, as an ASEAN member, Myanmar should behave in such a way as to be ‘well respected in the international community’.¹⁷⁸ The ASEM partners prompted Myanmar’s authorities to step ‘towards a legitimate, constitutional and civilian system of government’ (Paragraph 73).¹⁷⁹ The ASEAN argument that the elections must convince the international community that they were transparently prepared was a further reminder issued in late 2009 (paragraph 46).¹⁸⁰ The European Union recommenced boosting its targeted policy in response to the court’s verdict on Suu Kyi, with sanctions this time focused on the members of the judiciary responsible for the decision.¹⁸¹ Successive Council’s positions, together with the extension of restrictive actions, also recognised the progress promised by the ‘promulgation of a new electoral law’.¹⁸²

Yet, faulty party registrations, defective laws and the boycott of the NLD regarding the November 2010 elections were the specific focus of the meeting of ASEM Foreign Ministers held in Hungary in June 2011.¹⁸³ The EU policy re-extended the sanctions¹⁸⁴ and updated the list of persons and entities subject to restrictive procedures, in line with its focused strategy. It made clear to the Myanmar junta that the ‘non-association’ of the government’s appointees with the military was vital to the dialogue with the international community. Aiming at encouraging ‘progress in civilian governance’, the EU lifted for a period of twelve months the suspension of high-level bilateral governmental visits to Myanmar, and freed from these restrictions the new members of the government who were unaffiliated with the military. The reforms initiated by Thein Sein in his new role of President since March 2011 and the subsequent April 2012 by-elections showed Myanmar’s willingness for change being put into practice. The transformations were publicly recognized by ASEAN and the European Union, which invited European companies to explore new opportunities for trade and investment and to promote the highest standards of integrity and Corporate Social Responsibility (OECD Guidelines for Multinational Enterprises, UN guiding principles and the EU’s own CSR strategy 2011-2014) (paragraph 7).¹⁸⁵ The European Union solicited further compliance (paragraph 4)¹⁸⁶ and renewed, and also lifted, certain

¹⁷⁵ Haacke (2010) *op. cit.*, 156, 160.

¹⁷⁶ Chairman’s Statement of the 14th ASEAN Summit ‘ASEAN Charter for Asian Peoples’, Cha-am Hua Hin, Thailand, 28 February–1 March 2009.

¹⁷⁷ The significance of Asia and Europe common engagement was confirmed by the Foreign Ministers stressing that ASEM political dialogue was ‘necessary and fruitful’; the dialogue contributed to ‘highlight and expand common ground’, and ‘advance mutual understanding’ and ‘friendship’ (paragraph 16). The dialogue also generated informal seminars on Human Rights, which have been held annually since 1998. Chair’s Statement, at the Ninth ASEM Foreign Ministers’ Meeting in Ha Noi on 25–26 May 2009, *op. cit.*

¹⁷⁸ ASEAN Chairman’s Statement on Myanmar, 11 August 2009, Bangkok.

¹⁷⁹ Chair’s Statement of the Eight Asia-Europe Meeting (ASEM8), Brussels, 4-5 October 2010, ‘Greater well-being and more dignity for all citizens’.

¹⁸⁰ Chairman’s Statement of the 15th ASEAN Summit ‘Enhancing Connectivity, Empowering Peoples’, Cha-am Hua Hin, Thailand, 23-25 October 2009.

¹⁸¹ Council of the European Union, Council Common Position (2009/615/CFSP) of 13 August 2009 amending Common Position 2006/318/CFSP renewing restrictive measures against Burma/Myanmar.

¹⁸² Council of the European Union, Council Decision 2010/232/CFSP of 26 April 2010 renewing restrictive measures defined by 2006/318/CFSP against Burma/Myanmar.

¹⁸³ The ministers’ expectations regarded a ‘constitutional civilian system of Governance’, ‘dialogue with all parties’, an ‘inclusive national reconciliation process’, and yet the ‘release of Suu Kyi’ and those under detention (paragraph 90). Chair’s Statement, Tenth ASEM Foreign Ministers’ Meeting, Budapest, 6-7 June 2011.

¹⁸⁴ Council of the European Union, Council Decision 2011/239/CFSP of 12 April 2011 amending Decision 2010/232/CFSP renewing restrictive measures against Burma/Myanmar.

¹⁸⁵ Council of the European Union, Council Decision (2011/504/CFSP) of 16 August 2011.

¹⁸⁶ The requirements were: unconditional release of the remaining political prisoners, the removal of the restriction on those already released, access to humanitarian assistance in the Rohingya and Kachin State conflict areas (paragraph 4). Council of the European Union, Council Conclusions on Burma/Myanmar, 3159th Foreign Affairs Council Meeting, Luxemburg, 23 April 2012, *op. cit.*

restrictive measures.¹⁸⁷ Myanmar's authorities' signing on 20 September 2013, in Brussels, of the Additional Protocol on the application of safeguards in connection with the Treaty of Non-Proliferation of Nuclear Weapons was a further sign of a partnership in the making between the EU and Myanmar.¹⁸⁸

Assessing EU behaviour

EU behaviour *vis-à-vis* Myanmar since the Suffron uprising evolved. EU ministers declared themselves ready to discuss Burmese matters with their Myanmar counterparts at several possible meetings (regional, ministerial ASEAN-EU, ASEM, or at bilateral gatherings at the margins of these). The EU delivered the Strategy Paper on Myanmar regarding 2007-2013.¹⁸⁹ Both the aired meetings and the strategy paper hinged on ASEAN. ASEAN was also key to the subsequent EU's policy-making on Myanmar, namely the 2013 Comprehensive Framework. In that document, the EU pledged to assist Myanmar's government with rebuilding its place in the international community (p. 2), and also promised to support it in reaping the benefits of integration within ASEAN.¹⁹⁰ Again, it appears that Myanmar helped to reinforce the long-lasting EU-ASEAN relationship rather than endangering the EU's ties with ASEAN.

Conclusions

EU behaviour *vis-à-vis* Myanmar *via* EU-ASEAN displayed an element of continuity in terms of the EU's constant concern to avoid that the Myanmar issue destabilise its relations with ASEAN. As the interviewees confirmed, it was clear that the desire to get away from influential China together with the appeal for new partners were crucial in bringing about the changes. These have been identified as falling into three different phases. First, the EU insisted on sanctioning Myanmar, and ASEAN on rejecting the censure of Yangon's regime by its EU dialogue partner. This setting was well-established during 1991-1997. The EU's obstinacy in applying negative measures corresponded to ASEAN's inflexibility in defending its opposition to the 'external interference' of the EU and to its good governance claim. Second, the EU moderated criticism of Myanmar and ASEAN distanced itself from rejecting the censure of the regime by its EU dialogue partner. These changes occurred during 1998-2006. The Council of the European Union tried to use the two-pronged strategy of suspension and renewal of sanctions, and ASEAN demonstrated a change by starting to discuss Myanmar's problems during its meetings with the EU, expressly making recommendations, and progressively relaxing the non-interference principle. The paper upheld that the latter change was backed by the Association's preoccupation with the fact that Myanmar's affairs might negatively impact on ASEAN's integration project and standing. Third, the EU employed targeted sanctions and limited development cooperation, while ASEAN encouraged Myanmar's better governance. These policies evolved during 2007-2012. The Commission's Country Strategy Paper on Myanmar proved that the EU was less obstinate and immovable in its position of 'merely continuously sanctioning' Myanmar. It showed some openness in promoting local (non-state) actors' contribution to the democratisation process. ASEAN, concomitantly, several times insisted to the military junta that a transition to democracy was expected by the Association.

Informed by the idea of the evolution of the EU profile in world affairs through its political connections with ASEAN, this paper shed light on the Commission's 'attention to the EU's perceived growing global weight' and call 'to raise its profile' across Southeast Asia. However the evidence explored leads to the conclusion that the EU did not punch to its weight in the region.¹⁹¹ Investigations on Asian perceptions of the EU agree that the European Union is a global political actor 'somewhere else' in the world.¹⁹² With regard to Myanmar, as the Burmese interviewees indicated, the EU was an 'unknown' actor, or an agent which established a sort of negative publicity. Through the latest partnership strategy

¹⁸⁷ Council of the European Union, Council Decision 2012/225/CFSP, of 26 April 2012 amending Decision 2010/232/CFSP renewing restrictive measures against Burma/Myanmar.

¹⁸⁸ European Union External Action, Statement, Brussels, 20 September 2013 (130920/01); http://eeas.europa.eu/statements/docs/2013/130920_01_en.pdf

¹⁸⁹ The EC/Burma/Myanmar Strategy Paper (2007-2013), *op. cit.*

¹⁹⁰ Council of the European Union, Council conclusions on the Comprehensive Framework for the European Union's policy and support to Myanmar/Burma, Foreign Affairs Council meeting, Brussels, 22 July 2013, *op. cit.*

¹⁹¹ See Cameron (2013) *op. cit.*, 41-2.

¹⁹² See Holland, M., Ryan, P., Nowak, A. and Chaban, N. (eds) (2007) *The EU through the Eyes of Asia*, Warsaw: University of Warsaw.

the EU is finding new ways to raise its visibility as a motivating and inspiring referee. Whereas many scholars had dwelled on the difficulties caused by the Myanmar issue to the EU-ASEAN ties, no light was shed on the extent to which the Myanmar case had conversely helped to reinforce the long-lasting EU-ASEAN relationship. This is the original contribution of this paper.