

## PRIMERS FOR INTERNATIONAL ACCOUNTABILITY IN ASIA: INTERNATIONAL SANCTIONS AND MYANMAR

### What Are International Sanctions?

'Sanctions' are one tool within a broader political and legal strategy to affect change. Sanctions [may be imposed](#) to express condemnation for an action, [influence an actor's behaviour](#) and/or [encourage the actor to negotiate](#).

They may take many forms including:

- Arms embargoes;
- Flight bans;
- Bans on security assistance to the military or security forces to the affected State;
- Asset freezes of States, companies, or individuals; and
- Restrictions on trade with the affected State.<sup>1</sup>

Sanctions may be 'unilateral'—imposed by one State on an actor—or 'multilateral' with which multiple States comply.

The term 'targeted sanctions' or 'smart sanctions' is used to indicate that sanctions are designed to [specifically impact certain individuals or groups](#).<sup>2</sup> This means the sanctions are crafted in a way to minimise the harm that may be caused to individuals or groups that are unconnected to the reasons for sanctioning.

### How Effective Are Sanctions?

In general, unilateral sanctions [are rarely effective](#) in changing the policies of those impacted by the sanctions. However, this does not take away from the 'signalling effect' of sanctions—they can be important as an indicator of what a State may consider important to its foreign policy and a way of sending a powerful message without resorting to physical force. Even multilateral sanctions, or a sanctions regime imposed by multiple states, [are unlikely to be effective on their own](#)—albeit sending a stronger signal to the receiving actors.

For example, several States had implemented sanctions against Myanmar before its movement towards civilian democracy in the 2010s.<sup>3</sup> These sanctions were made to place pressure on the military-led government, but analysts suggest that while such sanctions likely had a significant impact on workers (see [here](#) and [here](#)), the overall economy did not suffer exceedingly—and therefore neither did those in charge. Rather, [regional States' support](#) of the Myanmar economy [undermined the efficacy](#) of international sanctions more broadly.

Even before the 1 February 2021 coup, several States had existing 'targeted' or 'smart sanctions' on members of, and entities involved with, the Tatmadaw. These included existing targeted sanctions on individuals and entities by [Australia](#), [Canada](#), the [European Union](#), the [United States](#), and the [United Kingdom](#) particularly in relation to the 2017 mass atrocities against the Rohingya. These pre-existing sanctions are important when considering the likely effect of further targeted sanctions on individuals and their business interests—sanctions on military leaders including General Min Aung Hlaing were not only expected, they were status quo at the time of the coup.

Nevertheless, any international actor's decisions are made within a complex system. Pressure in one part of the system—such as targeted sanctions against an individual—may have limited effect, but complementary pressure on multiple parts of the system could accelerate change.

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<sup>1</sup> Sanctions may also include restrictions or revocation of certain types of foreign aid. At no time should humanitarian aid be restricted.

<sup>2</sup> A study of the effectiveness of over 400 targeted sanctions between 2000-2012 can be found [here](#).

<sup>3</sup> A study of United States sanctions on Myanmar post-1997 can be found [here](#).

## What Should be Considered in Advocating for Sanction Implementation?

There are several factors to consider in advocating for sanction implementation. Amongst these include:

- **Any impact on human rights of the general population.** It is crucial to remember that both targeted and broader economic sanctions have caused long-term and far-reaching consequences for civilian populations. (For example, see [here](#), [here](#), and [here](#)). As the word 'sanctions' covers a range of measures—from the freezing of an individual's assets to restrictions on trade with an entire State—it is important to advocate for measures that cause the least harm possible to the civilian population.
- **The intended purpose of implementing any sanctions.** The sanction 'theory of change' often assumes the pressure on a State, entity, or individual caused by the sanction will [influence the actor's behaviour](#) and/or [encourage the actor to negotiate](#). However, sanctions [may be imposed](#) to change another State's behaviour ('instrumental') or assuage others or even a State's own domestic constituency by acting ('expressive'). Thinking about the end goal will assist in clarifying an argument for placing sanctions on whom, for what, and for how long.
- **The role of regional actors in supporting or undermining sanction efficacy.** For example in Myanmar, trade restrictions put in place by the [EU](#), [UK](#), and [US](#) may be *expressive* of condemnation for the February 2021 coup, but are unlikely to be *instrumental* to change without buy-in from regional actors. This is because, as of 2019, regional actors such as China and Thailand alone [constituted approximately half](#) of Myanmar's trade, with Singapore being Myanmar's biggest foreign investor. This regional support negates the economic pressure of reducing or preventing trade with sanction-implementing States.

## What About Sanction Breaches?

The effect of sanctions can be bolstered by monitoring and pursuing domestic prosecution of entities that operate in contravention of the sanction terms, including corporations that operate within their jurisdiction. This is because the construction of sanction declarations generally [include prohibitions on doing business](#) with sanctioned entities.

Encouraging sanction-implementing States to follow through with regulation and prosecution of sanction breaches—even when the sanction-breaching entities are based and primarily doing business in the sanction-implementer's country—gives a concrete action that States can take within their own jurisdiction. This includes investigating, and requiring reporting on, subsidiaries that may do business with sanctioned individuals or entities.

Such breaches may be 'strict liability' offences, meaning that no intent to breach the sanction is required to be held legally responsible. This is the case in the [US](#) and [Australia](#). However, in other jurisdictions, individuals or corporations may only be legally liable for a breach when they 'knew' or had 'reasonable cause to suspect' they were in breach. This is the case in the [UK](#).

Such breaches may be criminal or civil offences. Civil offences may result in considerable fines—for example, at least 8 banks have been [fined in connection with sanctions on Myanmar](#) in the US between 2010-2019. Criminal offences [may result](#) in [prison terms](#).

Pursuing sanction breaches can support change by making [business with the sanctioned entities unprofitable](#) and strengthen the condemnation signalled by the sanction-implementing State.

## How Are Sanctions Related to Broader Efforts for Accountability?

Sanctions themselves do not assist in determining the responsibility, and therefore the accountability, for violations of international human rights or humanitarian law. However, sanctions can call attention to violations and—if effectively implemented—can potentially reduce the harm caused by such violators. This is done by restricting the physical means by which violators can continue to perpetrate such harm and by reducing the political capital such violators have on the international stage. Further, monitoring of sanction breaches may help to see the network of support and potential collaboration in perpetrating such violations—information that will be important to future accountability processes.