

THE US RESPONSE TO POLITICAL DEVELOPMENT IN MYANMAR

Tin Tin Aye*

Abstract

The imposition of US economic and trade sanctions against Myanmar began in 1997 in response to control the democratic movement in Myanmar. In 2009, the Obama administration reassessed US national security and foreign policy holistically and practiced “principled engagement” with non-democratic countries to improve bilateral relations through diplomatic dialogue to advance human rights or other conditions. The US initially maintained status quo on sanctions while trying to engage the Myanmar government under this framework. Since 2010, elections led to a peaceful transition from the military government to the new quasi-civilian government. The President of the U Thein Sein government initiated a series of political, economic and administrative reforms. The reform process resulted in a substantial opening of the long-isolated country. In May 2012, the US has begun easing certain sanctions in response to the historic reforms in Myanmar. The majority of financial, investment, and trade restrictions were removed between 2012 and 2013. In July 2012, the US issued general licenses to permit the first new US investment in Myanmar and to broadly authorize the exportation of financial services to Myanmar. The intention of this policy change was to support ongoing reform efforts by the Myanmar government. In historic elections in November 2015, the NLD won a majority of the total seats in the national parliament and in most state and regional parliaments. This research attempts to explore why the US did impose the sanctions on Myanmar. It also analyzes why the US did ease the sanctions to Myanmar after 2010. Then it also examines how far reform process facilitates on the Myanmar-US relations.

Keywords: Myanmar, the United States, sanctions, political development

Introduction

Bilateral relations between Myanmar and the US had deteriorated for the violent suppression of pro-democracy demonstrations in 1988. In the 1990s, the US imposed economic and trade sanctions on Myanmar. Besides, the Depayin Crisis in 2003 and the Saffron Revolution in 2007 also strained

* Dr, Lecturer, Department of International Relations, University of Yangon.

the relationship between the two countries. To implement Myanmar democratic transition, SPDC government announced the seven-step Road Map to the “Disciplined Democracy” in 2003. After the 2010 multiparty general elections, U Thein Sein became a President of the Republic of the Union of Myanmar in March 2011. U Thein Sein government carried out a series of political, economic and administrative reforms. These reforms were the release of pro-democracy leader Daw Aung San Suu Kyi from house arrest, formation of the National Human Rights Commission, general amnesties of more than 200 political prisoners, relaxation of press censorship, and so on. The 2012 by-election was held on 1 April 2012. Daw Aung San Suu Kyi led the winning the by-election in a landslide victory. As a consequence of these reforms, ASEAN has permitted Myanmar’s offer for the chairmanship in 2014.

With the political reforms in Myanmar, the US changed its foreign policy towards Myanmar and initiated to improve its relations with Myanmar since 2011. In order to boost Myanmar transition, the US Secretary of State Mrs Hillary Clinton visited Myanmar on 1 December 2011. The visit was the first visit by a Secretary of State in more than fifty years. As a result, the US appointed Derek Mitchell as the US Ambassador to Myanmar in 2012. In addition, the US President Barack Obama also visited Myanmar in 2012 and 2014. In response, President U Thein Sein and Daw Aung San Suu Kyi visited the US in 2012. This paper aims to focus on the US responses to Myanmar political development before and after 2010.

The US Response to Myanmar Political Development Before 2010

In 1990, the very first multiparty democracy general elections were held in Myanmar. Although National League for Democracy (NLD) led by Daw Aung San Suu Kyi won landslide victory in the 1990 elections, the SLORC failed to transfer of power to NLD on the ground that there was no proper constitution to hand over the government duties and responsibilities. This was one of the facts that the US imposed economic sanctions on Myanmar. In addition, the US cut off economic and military assistance to Myanmar for that reason.

In 2003, the Seven-Step Road Map was announced by the SPDC, the successor of SLORC which included: (1) national reconciliation and democratic transition, (2) step-by-step implementation of the process necessary for the emergence of “a genuine and disciplined democratic system, (3) the drafting of a new constitution, (4) its adoption through a national referendum, (5) the holding of free and fair elections, (6) the convening of elected bodies, and (7) the building of a modern, developed and democratic nation. Indeed, the SLORC government began to call a National Convention (NC) in 1993. Since the beginning of the NC, the US watched continuously political process in Myanmar and imposed more targeted sanction on Myanmar particularly arms embargo, suspension of licenses, technical assistance agreements, defense training and defense facilities produced by the US. It was known as the Arms Export Control Act in 1993.

Unfortunately, the NC was suspended in 1996 because NLD representative walked out from NC which aimed to lay down to detailed principles for national constitution. Energizing the NC was the first step of the seven steps road map for national reconciliation and the transition of democracy on 30 August 2003. Although the US government closely watched the development of the NC in Myanmar, it remained low diplomatic representations in Myanmar since September 1990. It meant that Myanmar-US relations was in deteriorating conditions.

In the 1990s, the US imposed a series of sanctions including visa ban for significant victory leaders in Myanmar. In 1997, the US Congress endorsed to allow the President to block new investment in Myanmar and prohibit professionals from facilitating any transaction that a US citizen could not complete. In addition, the US suspended humanitarian aid, terminated diplomatic relations, imposed an arms embargo, including a ban on imports, visa restriction for some Myanmar military officers and their families and ended Myanmar’s preferred trading position. In 1997, the SLORC government renamed itself as the State Peace and Development Council (SPDC). Since 1988, the US placed the restrictions on the SLORC, later changed to the SPDC.

The official sanctions started in 1997 when President Bill Clinton came to White House. Under the Clinton administration, laws were passed by

the Congress and the White House for required the termination of US economic assistance and the anti-narcotics program and military training were also stopped in Myanmar. The imports sanctions were steadily increased as Myanmar was perceived to be making no progress towards democracy nor demonstrating respect for human rights in accordance with the US democratic benchmark Myanmar had obtained the Generalized Scheme of Preferences (GSP) since 1976. Moreover, the US suspended the GSP in 1989 because the reason was the government used of labour forced. The US and Western European countries initiated the most severe sanctions against Myanmar after the 1988 Uprising.

In 2003, Debayin incident broke out in Sagaing Division when NLD leader Daw Aung San Suu Kyi toured to Debayin to meet local supporters. As a consequence of Debayin incident, the US 108th Congress passed the Burmese Freedom and Democracy Act (BFDA). It included the general import ban and restrictions on providing financial services to government-related persons. The US general import ban prohibited US citizens and corporations from importing Myanmar goods. According the 2003 Act, it mandated sanctions and allowed the President to lift them upon the result of progress towards democratic government, the release of political prisoners, freedom of speech and the press, freedom of association, and freedom of religion. The 2003 Act affected Myanmar economy since the law excluded Myanmar nationals from potential trading partners with the US and western markets. The Congress had renewed the BFDA annually and till 2010. The harshness of the sanctions in the 2003 bill was satisfactory to encourage the SPDC to lift house arrest on Daw Aung San Suu Kyi from the house arrest.

On 28 July 2003, President George W Bush passed the Executive Order 13310. It enacted the prohibition of the exportation or re-exportation of any US financial services to Myanmar. According to the Order 13310, Myanmar Foreign Trade Bank (MFTB), Myanmar Investment and Commercial Bank (MICB) and Myanmar Economic Bank (MEB) were prohibited to deal transaction with the US client banks allowed the world. All these banks involved foreign exchange transactions in Myanmar. By 2003, due to the internal and external pressure, the military government required to introduce a roadmap to disciplined democracy which was a blue print for

Myanmar political reforms. However, the international community often viewed these actions by the military regime as dubious attempts to deter punishment, since the Myanmar government continued to commit actions that undermined the efforts of sanctions. Although the NC was convened in 1993, it was suspended in 1996 and was postponed until in May 2004.

In January 2007, although the US and the UK supported a resolution to impose sanctions on Myanmar, it was rejected by China and Russia at the UN Security Council. The SPDC government feared that the US would pursue “regime change”. But the US has not met the goals of “regime change” and forming “American style democracy” in Myanmar. Myanmar has upset a lot because of the US economic sanctions. The relations between the two countries failed to improve during this period.

During August and October 2007, there were mass protests in Myanmar. The protests originated in smaller demonstration against a sudden rise in prices to remove subsidies on food and over increased fuel prices led by pro-democracy activists and Buddhist monks. Through the protests, Buddhist monks and pro-democracy activists demanded for the national reconciliation and the release of Daw Aung San Suu Kyi. The event was known as Saffron Revolution because of the participation of the saffron-robed monks. In line with the Seven Steps Road Map, the SPDC government continued the convening of the NC. It was successfully concluded on 3 September 2007. The successful holding of the NC and the adoption of 104 detailed basic principles for the State’s Constitution of the Republic of the Union Myanmar were the accomplishment of the second and third steps of Seven Steps Road Map. Although the NC gradually proceeded to lay down Constitution, the impact from Saffron Revolution was another negative pressure on SPDC, President George Bush announced the Executive Order 13348 which extended sanctions to include asset freezes against individuals labeled as responsible for human rights abuses and public corruption and individuals. The Order authorized to freeze financial or material support to those labeled entities or the military government in Myanmar.

In addition, the Executive Order 13464 was issued by the President Bush on 10 April 2008 that expanded sanctions to permit freeze assets against Myanmar individuals. This Order could be seen that the US government

sought to increase pressure on the Myanmar government before referendum on new constitution was realized. Before holding the NR nation-wide referendum for 2008 Constitution, the Category IV Cyclone Nargis hit the Ayeyarwaddy and Yangon Divisions on 2 and 3 May 2008. However, on 10 May 2008, despite the aftermath of Category IV Cyclone Nargis, the Myanmar government held National Referendum (NR) to foster a “disciplined democracy”. Holding the NR to approve the 2008 Constitution was the success of the fourth step of the Road Map. The NR was an important feature of the approaching 2010 multiparty general elections which was the fifth step of the Road Map.

The US did not accept the holding the NR to approve 2008 Constitution. Since the process of 2008 Constitution failed to participate the representatives of NLD who won election in 1990. Therefore, the US Congress issued the Tom Lantos Block Burmese JADE (Junta’s Anti-Democratic Efforts) Act on 29 July 2008. It mentioned to restrictions on the use of correspondent accounts in US financial institutions for government-related persons. Its enactment effectively enjoined not only the US but also the third countries’ financial institutions from making dollar-denominated transfers to Myanmar. The US restrictions on the provision of financial services aimed to delay Myanmar export to third country like Japan. However, Japan did not impose sanctions. The Treasury Office of Foreign Assets Control in the US approved unlimited allowances to Myanmar as necessary aid subsequent Cyclone Nargis. But the 2008 election in the US gave an opportunity to improve relations between Myanmar and the US. General Than Shwe, the Chairman of the SPDC, sent a congratulatory message to Mr Obama on the occasion of his election in November 2008.

Since the end of 2008, the Myanmar government tried to improve its relations with the US. The Chairman of the SPDC, General Than Shwe, sent a congratulatory message to President-elect Obama on the occasion of his election in November 2008. It was a signal of Myanmar government to ease tense relations with the US. Similarly, the Obama administration realized that sanctions on Myanmar failed to meet its objective, the regime change. It began to review and adjust the US policy towards Myanmar. In 2009, although the director of the office for mainland Southeast Asia in the US

Department of State and Myanmar Foreign Minister met in Nay Pyi Taw, bilateral relations between Myanmar and the US were deteriorated when Daw Aung San Suu Kyi was house arrest. Sanction on Daw San Suu Kyi was extended due to illegal entering of Mr John Yettaw into the NLD Headquarter in Yangon.

To improve human rights record it is necessary to implement more democratic features into its political system, Myanmar had complied or approved international human rights treaties such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the UN Convention against Transnational Organized Crime (UNTOC) and has extended invitations to UN special envoys. In addition, the government has permitted international agencies such as the ILO and the UNDP access to provide assistance in development plans and programs. Whether this is a direct result of US sanctions or due to humanitarian crises or the HIV/AIDS epidemic is unclear.

Myanmar and the US continued communication and overcame the destructive influence of the incident. However, both countries began to conduct high level meetings. In response, the SPDC government released over 7000 prisoners in September 2009. The US lifted visa bans on Myanmar officers. On 18 February 2009, Secretary of State Ms. Clinton stated in Jakarta that economic sanctions imposed by the US and other Western countries had been unsuccessful to force the SPDC in Myanmar. Therefore, the US was going to start a comprehensive review of the US policy towards Myanmar. At the same time, in order to demonstrate its progress in the human rights field and further express goodwill in Myanmar, SPDC began to release prisoners in February 2009.

The US economic integration policy has one aspect of a constructive engagement strategy. The US has focused on improving diplomatic relations with Myanmar. Besides, President Obama and Secretary of State Ms Clinton visited Myanmar in 2009 and 2012. In response, the President U Thein Sein and the NLD leader, Daw Aung San Suu Kyi, have visited Washington. The mutual visits have provided a dialogue between Myanmar and the US. It has created strong partnerships to advance democratic reforms. The US has

restored financial aid to Myanmar. The US actions are to create strong diplomatic relations between Myanmar and the US.

Gradual development of bilateral relations started to gain momentum. The US declared a new pragmatic engagement policy towards Myanmar. The US government invited Foreign Minister, U Nyan Win to visit Washington for the first time in September 2009. The US permitted former Prime Minister U Thein Sein to join the UN General Assembly (UNGA). U Thein Sein was the official leader of Myanmar delegation to the UN to address at the UNGA since 1995.

On 8 November 2010, a general election was held in Myanmar. It was the fifth step of the Road Map planned by the SPDC in 2003 and was approved in the NR held in 2008. However, the NLD party refused to compete in the 2010 election because of the election laws. The UN, some members of ASEAN, the US and Western countries had contended that the elections was not reliable without the participation of the NLD party.

The US Response to Myanmar Political Development after 2010 Elections

On 31 March 2010, the newly and first time elected government in Myanmar established legislative, executive and judicial pillars that emerged from the 2008 Constitution. These are foundations for emergence of a discipline-flourishing democracy. It also completed the sixth and seventh steps of the Road Map issued by SPDC in 1993. After March 2010, the U Thein Sein government has changed significant steps towards political and economic reforms. On 30 March 2011, the first regular session of Pyidaungsu Hluttaw was successfully convened to elect the President and Vice Presidents.

In order to begin a process of reconciliation with the political opposition such as the NLD, by-election was held on 1 April 2012 to fill 45 vacant seats in Myanmar. The NLD had trumped in by-elections, bringing Daw Aung San Suu Kyi into parliament. In response, the Obama Administration announced a statement on 1 April 2012, congratulating:

“the people of Burma on their participation in the electoral process, and Aung San Suu Kyi and the National League for Democracy on their strong showing in the polls.”

In addition, on 4 April 2012, State Secretary Mrs Clinton announced that US undertaken five steps to support and foster reforms in Myanmar “in light of the by-elections and other progress in recent months.” In response, the 2012 by-election impressed the US lifted the travel ban on Myanmar leaders and eased sanctions affecting US investment.

Within one year, in 2012, the hybrid civilian government termed by some International Relations Scholars released political prisoners, organized ceasefire dialogues with ethnic armed groups, made modest steps towards freedom of press by easing censorship, postponed the Myintsone Dam Project and held by-election. In August 2012, the US Congress reintroduced general import ban under the BFDA and restrictions on investments and financial services were reduced in July 2012. As a result, the State Department and the Treasury Departments of the US announced a waiver of the ban on imported Myanmar goods except jades and rubies. Thus the multitudes of sanctions were lifted by the end of 2012.

In 2013, the US Congress decided not to renew the import ban, prompting President Obama to issue an executive order that maintains the prohibition on the importation of jades and rubies. This ban remained in place to reduce Myanmar’s military resources. Moreover, the US gradually extended its engagement policy by relaxing some sanctions imposed over the past two decades as in response to human rights abuses. The EU and the US suspended sanctions with the exclusion of the arms embargo in 2013 and 2016 respectively. The reasons behind the practice of the sanctions of the US and Western countries particularly EU are to change from the military government to the democratic government and human rights violations in Myanmar. In fact, the US sanctions program has blocked multinational aid targeted to grass-root community directly, not to SPDC. It benefited the Myanmar peoples even though Myanmar received far a smaller amount of assistance than any country in the region. The sanctions undermined the UN Development Programme and pushed Myanmar government into China deeply.

Since the establishment of the first civilian democratic government, Myanmar’s relations with the EU and the US became improved. In 2013, the EU and the US restored GSP scheme for Myanmar and applied the Everything

But Arms (EBA) scheme retroactively since June 2012. Tariff exemptions in EU and the US markets started to open up imports from Myanmar. The US and the UN often choose to practice economic sanctions rather than military force to achieve international political objectives.

Since 2012, the US has begun to ease sanctions on Myanmar. This shift in the US foreign policy took after constructive engagement, focusing on diplomatic relations and economic integration. The easing of sanctions without complete change in the status quo in Myanmar was a significant shift in the US policy as a success story of Obama Administration. While some relaxation were permitted for Myanmar reforms, the US recognized that, through investment, Myanmar would likely to change in accordance with the US goals, economic conditions and the Myanmar people would live better lives.

In 2016, President Obama passed announcement lifting the economic sanctions on Myanmar but under different conditions, stated that:

“I have determined that the situation that gave rise to the national emergency ... has been significantly altered by Burma’s (Myanmar’s) substantial advances to promote democracy, including historic elections in November 2015.”

Unlike President Bill Clinton of Democratic Party, President Obama practiced to waive the sanctions on Myanmar by issuing the Executive Order 13427. It was the waving the economic sanctions described in the section 5(b) of the JADE Act in October 2016. In December 2016, President Obama released Presidential Determination which ended the restriction on the US assistance to Myanmar. But, a number of non-economic restraints remained in effect. These includes: prohibition on issuing visas to enter the US to some forms of Myanmar officials by means of provided by Section 5(a) of the JADE Act and restrictions on arms sales to Myanmar.

In addition, Congress has limits on bilateral relations in appropriations legislation; including limitations on relations with the Tatmadaw. Section 704(b) of the 2017 Consolidated Appropriations Act, for example, placed a number of restrictions on bilateral, international security, and multilateral assistance to Myanmar. Those restrictions remain in effect under the

provisions of the 2018 Continuing Appropriations Act and the 2017 Supplemental Appropriations for Disaster Relief Requirements Act.

Eventually, the second multi-party democracy general election was held in 2015. The 2015 election was held successfully. The NLD party won 327 seats in the Pyithu Hluttaw and 168 seats in the Amyotha Hluttaw. The international communities mentioned the 2015 election which marked the sincerely competitive, free, fair and systematic parliamentary elections since 1990. Also, it was the significant election because the quasi-civilian government esteemed the election results and allowed the peaceful transfer of power to the civilian government.

In addition, the US has also eased sanctions on Myanmar's banking sector. However, oversight has been difficult because Myanmar allows citizen-owned banks to operate. To address concerning with specific banks, the US has placed some banks on the Specially Designated Nationals (SDN) list and issued General License No. 19 to allow investors to carry out transactions with certain banks under certain conditions. This change allows the US investors to import capital and more easily remit profits back to the US on investments in Myanmar. The easing of sanctions and new sanction policies are single for the US and will further the US objectives more efficiently.

The diplomatic gradual engagement was the way to further developing partnerships. It reinforced the economic integration of the country and provide key pledges of a transparent government. The US announced a new partnership with Myanmar to provide technical assistance in Myanmar's extractive industries sector. Myanmar has large natural gas and oil reserves and by becoming an active member of Extractive Industries Transparency Initiative (MEITI). The US policymakers have been concerned about the oil and gas industry, thus resulting in the current disclosure requirements. This is only one example of what is possible by forging diplomatic relations.

Additionally, the government has started working on Central Bank of Myanmar (CBM) law, Microfinance law, new intellectual property laws, a new electricity law and a new arbitration law, etc that will make Myanmar's accession to the New York Convention on the Recognition and Enforcement of Foreign Arbitration Awards effective. The Myanmar government has begun

issuing rules and notifications on many of its internal practices, providing investors with more certainty. Myanmar businesses have also become accustomed to agreeing to either foreign law or international arbitration rules to settle disputes. This is a huge development in the rule of law by a country that had been run arbitrarily. During this time period, investment continued to increase, and many of these laws were developed to accommodate foreign investors.

Conclusion

The purpose of sanctions by both the Democratic President Clinton and Republican President Bush governments was definitely intended for system change, that is, to honor the results of the 1990 elections and give power to the NLD. The US did not impose any sanctions against Myanmar until the 1988 Uprising. Although the US recognized Myanmar as one of the original receivers of its GSP program in 1976, the US imposed sanctions on Myanmar since 1990. The US allowed Myanmar the MFN status (now referred to as Normal Trade Relations or NTR) status. In addition, the US reinforced the authorization of developmental assistance by international financial institutions.

From 1990 to 2008, the US Congress issued many laws: the BFDA and the JADE Act, imposing various types of political and economic sanctions on Myanmar. In addition, the US Presidents have imposed sanctions on Myanmar, such as the imposing of an arms embargo and the withdrawal of GSP benefits. Due to the US's sanctions and increasing condemnation from the international community, the military government accepted to prerequisite political reform in order to retain its legitimacy and survivability. As a result, the military government implemented a "roadmap to disciplined democracy" and drafted a new constitution which called the 2008 constitution and held multi-party elections.

From 2009 to 2016, the Obama Administration adopted a constructive engagement policy. Its policy was made more contact with Myanmar military officers. But the sanctions remained until sufficient changes had taken place in Myanmar to deserve the removal of the sanctions. The 2010 multi-party general elections in Myanmar, peacefully transferred power from the military

government to a hybrid civilian government in 2011, the trump of NLD party in 2012 by-election smoothed the changes in the US sanction policies towards Myanmar. In order to bring democratic change to Myanmar, the Obama administration pursued an engagement policy as well as continuing sanctions. The U.S. intentional goals and interests are still to support a unified, peaceful, prosperous and democratic Myanmar that respects human rights. The US imposed trade and financial sanctions on Myanmar to encourage democratic reforms and human rights. These sanctions fell into several broad categories: visa bans, financial services restrictions, Myanmar imported goods bans, prohibitions on new investments in Myanmar, and the US assistance to Myanmar restrictions.

Under the Obama administration, Myanmar and ASEAN featured prominently in its rebalance policy towards Asia. In fact, President Obama made close ties with the ASEAN leaders chose Myanmar and Cuba as a highlight of his foreign policy success during his 8-year tenure. He visited Myanmar twice and normalized US-Myanmar relations. In September 2016, State Counselor and Foreign Minister Daw Aung San Suu Kyi made a historic visit to the US, further strengthening bilateral relations. As a result, the U.S. made several policy changes toward Myanmar which include reestablishing GSP, establishing a US-Myanmar Partnership, expanding people-to-people ties, developing bilateral economic engagement, and reintroducing a new USAID loan portfolio guarantee. Although the US has lifted sanctions on Myanmar since 2011, the attention of the new sanctions has altered from the democracy to security and community conflicts.

The US policy towards Myanmar has never been not only about promoting human rights and democracy but also its engagement policy was intended to prevent Myanmar away from Chinese influence since 2009. Under the Trump administration, the US has not intentionally engagement with Myanmar. China has so far protected Myanmar from possible UN sanctions for the Bengali issue, while acceleration its drive to strengthen bilateral relations through trade and investment. The Trump administration has not prepared to counterbalance Chinese new growing influence over Myanmar, despite the US Pentagon's desire to reengage its military to decrease its dependence on China. The diplomatic relations between Myanmar and the US

has established on the eve of its independence in 1948. But the relations between Myanmar and the US have always been ups and downs.

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