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CAN ECONOMIC SANCTIONS WORK IN MYANMAR?

Dominic Marcella¹

ABSTRACT

Armed conflict in Myanmar has killed tens of thousands and displaced millions. Yet, prevailing wisdom would hold that, short of armed intervention, there is little the international community can do to restore peace. This Article argues that, though typically ineffective, economic sanctions can actually succeed in bringing about regime change in Myanmar.

After exploring the logic, legality, and effectiveness of economic sanctions, this Article provides the first comprehensive look into sanctions against Myanmar. It analyzes the many holes in existing sanctions regimes and how Myanmar’s ruling military junta has been able to evade them. After considering Myanmar’s unique circumstances, it makes several proposals that would dramatically improve the effectiveness of economic sanctions.

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INTRODUCTION

Although armed conflict in Myanmar has killed tens of thousands and displaced millions, it has received relatively little international attention.² And yet, the lives of over 54 million people³ are at imminent risk. Within the last seven years, the country has experienced a genocide and a military coup d'état, and it is currently in the midst of a devastating armed conflict between the military, rebel militias, and other armed groups.⁴ However, while regional politics has prevented the United Nations Security Council from taking any meaningful action,⁵ there is still hope for an eventual return to civilian rule and an end to the violence. The National Unity Government (NUG)—essentially Myanmar's civilian government-in-exile—is doing everything it can to retake the country, and the military junta's control over Myanmar

2. See, e.g., Mike Ives, *Why Myanmar's War Matters, Even If the World Isn't Watching*, N.Y. TIMES (Apr. 20, 2024), <https://www.nytimes.com/2024/04/20/world/asia/myanmar-civil-war-consequences.html?searchResultPosition=8>.

3. *World Population Dashboard: Myanmar*, UNITED NATIONS POPULATION FUND, <https://www.unfpa.org/data/world-population/MM> (last visited Apr. 13, 2024).

4. See discussion *infra* Section I.C.

5. See, e.g., *UN Security Council Resolution Demands End to Myanmar Violence*, AL JAZEERA (DEC. 22, 2022), <https://www.aljazeera.com/news/2022/12/22/un-security-council-resolution-demands-end-to-myanmar-violence> (quoting the director of Burma Campaign UK: “Russia, China, and India are using their seats on the Security Council to protect their profitable dodgy arms deals with the Burmese military”).

has shown signs of cracking.⁶ This Article will argue that the best way for the international community to support the NUG is to impose coordinated and targeted economic sanctions on the military junta.

The use of economic sanctions is somewhat controversial. Many scholars have argued that economic sanctions have a poor track record of success.⁷ Others have argued economic sanctions cause excessive harm to a state's general population and raise human rights concerns.⁸ Nonetheless, every situation in which economic sanctions are applied is unique. This Article will argue that, due to the particular social, economic, and political circumstances in Myanmar, economic sanctions are critical to effect regime change. It will also argue that economic sanctions are likely to result in less overall harm to the general population than a policy of nonintervention. Despite their potential efficacy, however, economic sanctions are only one tool the international community has at its disposal. Regime change will be much easier to achieve if economic sanctions are paired with strategic investment in and support for the NUG.

Part I of this Article will provide a brief overview of the current political situation in Myanmar. Part II will then explore the logic behind economic sanctions, including their objectives, appeal, legality, and how they function. Part III will detail the current sanctions that have been imposed on Myanmar and why they are woefully insufficient to achieve regime change. Finally, Part IV will provide several suggestions for how the international community can aid the NUG in returning Myanmar to a civilian government that respects human rights.

6. See discussion *infra* Sections I.C, IV.A, IV.D.

7. See, e.g., Peter A.G. van Bergeijk & Thomas Biersteker, *How and When Do Sanctions Work? The Evidence*, in ON TARGET? REP. NO. 25: E.U. SANCTIONS AS SECURITY POLICY TOOLS 17, 17 (Iana Dreyer & José Luengo-Cabrera eds., 2015) (noting the Peterson Institute for International Economics sanctions database shows sanctions “fail to achieve their policy goals in about two out of three cases,” and the “research of the Targeted Sanctions Consortium (TSC) on United Nations (UN) targeted sanctions suggests an even lower rate of success”); GARY CLYDE HUFBAUER ET AL., ECONOMIC SANCTIONS RECONSIDERED: HISTORY AND CURRENT POLICY 80 (1985) [hereinafter ECONOMIC SANCTIONS RECONSIDERED] (finding economic sanctions effective 36% of the time); Robert A. Pape, *Why Economic Sanctions Do Not Work*, INT'L SEC., Fall 1997, at 90, 93 (finding that only 5 of the 115 cases looked at by Hufbauer et al. “are appropriately considered successes”).

8. See, e.g., Michael Ewing-Chow, *First Do No Harm: Myanmar Trade Sanctions and Human Rights*, 5 NW. J. INT'L HUM. RTS. 153, 158 (2007) (noting “the people in Myanmar have grown steadily poorer” as a result of previous sanctions regimes on the country); U.N., Econ. & Soc. Council, Comm. On Econ., Social & Cultural Rts., ¶ 3, Gen. Comment No. 8, U.N. Doc. E/C.12/1997/8 (Dec. 12, 1997) (finding economic sanctions “almost always have a dramatic impact” on the general population's enjoyment of economic, social, and cultural rights).

I. THE CURRENT SITUATION IN MYANMAR

Since achieving independence from Britain in 1948, Myanmar has been enmeshed in internal conflict. Although the ethnic Bamar people comprise 68% of the population,⁹ it is an incredibly diverse nation. The central government recognizes 135 distinct ethnic groups,¹⁰ which have different cultures, often different languages, and even different religious backgrounds.¹¹ Some of these ethnic minority groups never completely accepted the Bamar-dominated central government and have fought for their independence—or at least greater autonomy—since Myanmar achieved independence from British rule in 1948.¹² These conflicts have been collectively referred to as the world's longest-running civil war.¹³ To make matters worse, Myanmar's first civilian-led government was short-lived. In 1962, the military, which is called the Tatmadaw, staged a coup.¹⁴ The country was run by a military junta until 2011, when the Tatmadaw allowed a civilian government to (mostly) take power.¹⁵ This Part will begin by examining the political structure of Myanmar after 2011. It will then provide a brief overview of the genocide against the Rohingya, and it will conclude with a description of the 2021 military coup and the current state of the country.

A. Myanmar Returns to a (Mostly) Civilian Government

From 1988 to 2011, the Tatmadaw directly ruled Myanmar through the military-led State Law and Order Restoration Council (SLORC).¹⁶ However, in 2008, there were signs of change. That year, the SLORC implemented a new constitution that provided for “a ‘genuine multi-party discipline-flourishing democracy’ in Burma”¹⁷ In March 2010, this was followed up with a spate of five new electoral laws, which, *inter alia*, provided for democratic national elections to be held at the end of that year.¹⁸ Unfortunately, it was clear that the Tatmadaw

9. *Burma*, THE WORLD FACTBOOK (Mar. 17, 2025), <https://www.cia.gov/the-world-factbook/countries/burma/>.

10. *Myanmar*, MINORITY RIGHTS GROUP (Nov. 2020), <https://minorityrights.org/country/myanmar/>.

11. NEHGINPAO KIPGEN, *MYANMAR: A POLITICAL HISTORY* 11 (2016).

12. Ivan Watson, *Myanmar's Hidden War*, CNN (Nov. 11, 2015), <https://www.cnn.com/2015/11/11/asia/myanmar-shan-rebels-civil-war/index.html>.

13. *Id.*

14. KIPGEN, *supra* note 11, at 3.

15. *Id.* at 4.

16. Adam Simpson & Nicholas Farrelly, *Analysing a Disaster, Wrapped in a Catastrophe, Inside a Tragedy*, in *MYANMAR: POLITICS, ECONOMY & SOCIETY* 1, 5 (Adam Simpson & Nicholas Farrelly eds., 2nd ed. 2024).

17. ANDREW SELTH, *INTERPRETING MYANMAR: A DECADE OF ANALYSIS* 91 (2020).

18. *Id.*

had no intention of relinquishing full control over the country. One of the most controversial of these new laws prohibited political parties from running candidates who had criminal convictions.¹⁹ This effectively barred “more than 2,000 political prisoners from participating, apparently including democracy leader Aung San Suu Kyi.”²⁰ By barring Aung San Suu Kyi—the leader of the country’s primary opposition party, the National League for Democracy (NLD)—the SLORC ensured its most influential opponent would not gain a foothold in power.

Even without these new electoral laws, the 2008 constitution was designed to ensure the continued influence of the Tatmadaw. For example, the system for choosing the country’s president and two vice-presidents guaranteed that one of these offices would always be held by the Tatmadaw.²¹ The commander-in-chief of the Tatmadaw was also designated the “Supreme Commander of all armed forces,” which were to be independently administered by the Tatmadaw and removed from civilian government control.²² In the case of a state emergency—which included insurgencies—the commander-in-chief was empowered to “take over and exercise State sovereign power”²³ In a country riven by long-standing conflict with ethnic armed groups, this provision was like the sword of Damocles, threatening to drop at any time and kill the nascent civilian government.

Furthermore, under the 2008 constitution, the commander-in-chief was to appoint 25% of the members in both the Amyotha Hluttaw and Pyithu Hluttaw (the upper and lower houses of the Burmese parliament respectively).²⁴ This was paired with a provision that stipulated that amendments to the constitution required the prior approval of more than 75% of the Pyidaungsu Hluttaw (the entire union parliament).²⁵ Since the Tatmadaw would always comprise at least 25% of the Hluttaw, this gave it a de facto veto over any changes to Myanmar’s constitution. Finally, under the constitution, the commander-in-chief was to nominate personnel for the ministries of defense, border affairs, and the interior.²⁶

19. *Id.* at 92.

20. *US: Burma Election Law ‘Mockery’ of Democratic Process*, VOICE OF AMERICA NEWS (Mar. 7, 2010), <https://www.voanews.com/a/us—burma-election-law-mockery-of-democratic-process-87269337/113871.html>.

21. CONSTITUTION OF THE REPUBLIC OF THE UNION OF MYANMAR (2008) art. 60, https://www.burmalibrary.org/docs5/Myanmar_Constitution-2008-en.pdf.

22. *Id.* at art. 20.

23. *Id.* at art. 40(c).

24. *Id.* at arts. 109(b), 141(b).

25. *Id.* at art. 436(a).

26. *Id.* at art. 17(b).

In light of the significant control the 2008 constitution granted the Tatmadaw over government and the devastating effect of the new election laws on the political opposition, it should come as no surprise that the U.S. State Department referred to the 2010 elections as a “mockery of the democratic process.”²⁷ In fact, the NLD refused to recognize the 2008 constitution and decided to boycott the 2010 election entirely.²⁸ Without a significant opposition party, the Tatmadaw-controlled Union Solidarity and Development Party (USDP) was able to completely dominate the elections, and former prime minister Thein Sein became the country’s president.²⁹

Surprisingly, however, Thein Sein’s government oversaw a period of positive societal reform. Shortly after taking power, Thein Sein released and granted amnesty to thousands of prisoners, including 220 political prisoners.³⁰ While this was only a small fraction of the country’s political prisoners,³¹ the USDP undertook a number of other initiatives to liberalize the country. The USDP relaxed some of its censorship on the media, for instance, even permitting access to certain formerly restricted websites (e.g., Reuters and YouTube).³² The USDP also attempted a rapprochement with the international community. Consequently, the U.S. changed its approach to Myanmar, engaging in a series of high-level state visits and “bilateral cooperation programs.”³³ ASEAN, too, endeavored to encourage Myanmar’s policies of reform and unanimously endorsed Myanmar as the organization’s chair for the year 2014.³⁴ The USDP also pursued ceasefire agreements with armed ethnic groups and passed legislative reforms that granted greater civil liberties, such as freedom of association.³⁵ Most notable were the economic reforms. The government created new macroeconomic institutions, including a new central bank, passed legislation to reduce corruption, and invested in modernization, microfinancing, and infrastructure development.³⁶

27. *US: Burma Election Law 'Mockery' of Democratic Process*, *supra* note 20.

28. Simpson & Farrelly, *supra* note 16, at 5.

29. See KIPGEN, *supra* note 11, at 78–79.

30. *Id.* at 82–83.

31. *Id.*

32. *Id.* at 85–86.

33. Ko Ko Hlaing, *Myanmar’s Reform: Current Situation and Future Prospects*, in MYANMAR: REINTEGRATING INTO THE INTERNATIONAL COMMUNITY 183, 186 (Li Chenyang et al. eds., 2016).

34. *Id.*

35. *Id.* at 187.

36. *Id.* at 187–88.

As another indication of progress towards true democracy, the NLD rejoined the formal political process. In 2012, many NLD members, including Aung San Suu Kyi, were voted into the Hluttaw through by-elections.³⁷ In the 2015 general elections, the NLD saw even greater success, capturing over two-thirds of the seats in the Pyidaungsu Hluttaw.³⁸ This gave the NLD enough votes in the Hluttaw to choose the president.³⁹ Aung San Suu Kyi became the state counsellor—a newly created position allowing her to wield power since she was barred from becoming president by a constitutional provision—and her confidante Htin Kyaw was appointed president.⁴⁰ These post-2010 political, social, and economic developments made Myanmar more genuinely democratic than it had been since the Tatmadaw's coup in 1962.

B. The Genocide Against the Rohingya

Even while Myanmar was undergoing democratic reforms in the 2010s, the Tatmadaw became stronger, more professional, and acquired new arms.⁴¹ In 2017, after a long-standing conflict erupted in violence, the Tatmadaw launched what many, including the U.S., have called a genocide against the ethnic Rohingya minority group.⁴²

Although the history of the Rohingya in Myanmar is complex and hotly debated, it is undeniable that they have experienced decades of persecution. The Burmese government has maintained that the Rohingya are Bengalis who illegally migrated to Myanmar during British colonial rule.⁴³ The Rohingya were not given full nationality in Myanmar's 1947 constitution, and under the 1982 Burmese Citizenship

37. Simpson & Farrelly, *supra* note 16, at 5.

38. *Myanmar Election: Suu Kyi's NLD Wins Landslide Victory*, BBC (Nov. 13, 2015), <https://www.bbc.com/news/world-asia-34805806>.

39. *Id.*

40. Euan McKirdy, *New Government Role Created for Myanmar's Aung San Suu Kyi*, CNN (Apr. 7, 2016), <https://www.cnn.com/2016/04/06/asia/aung-san-suu-kyi-state-counsellor-role-created/index.html>. Article 59(f) of Myanmar's 2008 constitution prohibits anyone from becoming president or vice president if they have a parent, spouse, or child who is a citizen of another country. Aung San Suu Kyi's two sons are British citizens, barring her from the presidency. Jamie Tarabay, *Myanmar's Military: The Power Aung San Suu Kyi Can't Control*, CNN (Dec. 6, 2017), <https://www.cnn.com/2017/09/21/asia/myanmar-military-the-real-power/index.html>.

41. SELTH, *supra* note 17, at 373.

42. Remarks by Antony J. Blinken, Sec'y of State, on the Genocide and Crimes Against Humanity in Burma (Mar. 21, 2022), <https://2021-2025.state.gov/secretary-antony-j-blinken-at-the-united-states-holocaust-memorial-museum/>.

43. HUMAN RIGHTS WATCH, MALAYSIA/BURMA: LIVING IN LIMBO: BURMESE ROHINGYAS IN MALAYSIA (Aug. 2000), <https://www.hrw.org/legacy/reports/2000/malaysia/index.htm>; *see also* Eleanor Albert & Lindsay Maizland, *The Rohingya Crisis*, COUNCIL ON FOREIGN REL. (Jan. 23, 2023), <https://www.cfr.org/backgrounder/rohingya-crisis>.

Law, the Rohingya were deemed foreigners ineligible for citizenship.⁴⁴ In 1988, the SLORC began further persecuting the Rohingya, who “experienced basic human rights violations including denial of access to education, healthcare, employment, freedom of movement, religion, and even limited rights to get married or have children.”⁴⁵

In the run-up to the 2015 elections, many Rohingya fled their homes after suffering violence at the hands of their Rakhine⁴⁶ neighbors and were living in camps for internally displaced persons.⁴⁷ Meanwhile, the ultra-nationalist Buddhist organization Ma Ba Tha put tremendous pressure on the Burmese government to take action against Muslims in Myanmar—particularly the Rohingya—whom they viewed as a threat to Burmese Buddhism.⁴⁸ Laws drafted by Ma Ba Tha were passed that were “designed to stop Muslims having multiple wives, large families, and marrying Buddhist women.”⁴⁹ The government also repealed the Rohingya’s voting rights and disqualified their candidates for the Hluttaws.⁵⁰

It was against this backdrop that the insurgent Arakan Rohingya Salvation Army (ARSA) launched an attack on three border guard police stations, killing nine police officers in October 2016.⁵¹ The Tatmadaw response included abducting Rohingya individuals for interrogation, invasive searches of homes, and raping Rohingya women.⁵² On August 25, 2017, ARSA attacked around 30 security force outposts, prompting a brutal backlash by the Tatmadaw,⁵³ which embarked on a “systematic, organized and ruthless campaign of violence against the Rohingya population as a whole in northern Rakhine State . . .”⁵⁴ Within a year,

44. AZEEM IBRAHIM, *THE ROHINGYAS: INSIDE MYANMAR’S HIDDEN GENOCIDE* 48–52 (2016).

45. Abul Hasnat Milton et al., *Trapped in Statelessness: Rohingya Refugees in Bangladesh*, 14 INT’L J. ENV’T RSCH. & PUB. HEALTH 942, 943 (2017).

46. Rakhine State is home to the majority of the Rohingya in Myanmar. See Albert & Maizland, *supra* note 43.

47. David Mepham, *What Burma’s Elections Mean for the Rohingya*, HUM. RTS. WATCH (Oct. 8, 2015), <https://www.hrw.org/news/2015/10/08/what-burmas-elections-mean-rohingya>.

48. See, e.g., Jonah Fisher, *Myanmar’s Ma Ba Tha Monks Flex Their Political Muscle*, BBC (Oct. 8, 2015), <https://www.bbc.com/news/world-asia-34463455>.

49. *Id.*

50. Mepham, *supra* note 47.

51. UNITED STATES DEP’T OF STATE, DOCUMENTATION OF ATROCITIES IN NORTHERN RAKHINE STATE 5 (Aug. 2018) [hereinafter ATROCITIES].

52. *Id.*

53. *Id.* at 6. That same day, ARSA also murdered ninety-nine Hindus in two massacres in northern Rakhine State. *Myanmar: New Evidence Reveals Rohingya Armed Group Massacred Scores in Rakhine State*, AMNESTY INT’L (May 22, 2018), <https://www.amnesty.org/en/latest/news/2018/05/myanmar-new-evidence-reveals-rohingya-armed-group-massacred-scores-in-rakhine-state/>.

54. *Myanmar: Crimes Against Humanity Terrorize and Drive Rohingya Out*, AMNESTY INT’L (Oct. 18, 2017), <https://www.amnesty.org/en/latest/news/2017/10/>

the Tatmadaw—sometimes accompanied by civilians—drove nearly 800,000 Rohingya out of their homes.⁵⁵ One in ten Rohingya refugees reported witnessing acts of mutilation or torture,⁵⁶ and the Tatmadaw systematically engaged in rape and other forms of sexual violence during their operations against the Rohingya.⁵⁷ By December 2017, over 350 Rohingya villages had been at least partially destroyed,⁵⁸ and by early 2018, the Burmese government had “cleared at least 55 villages of all structures and vegetation using heavy machinery.”⁵⁹ One 2018 study by the Ontario International Development Agency estimated nearly 24,000 Rohingya had been killed and nearly 18,000 raped, while approximately 115,000 houses had been burned.⁶⁰ The Tatmadaw also tried to starve the Rohingya out by denying them access to their rice paddies during the harvest, stealing their livestock, and restricting humanitarian assistance.⁶¹ Today, there are currently over 1 million Rohingya refugees, with the vast majority living in the Cox’s Bazar region of Bangladesh.⁶²

It is important to note that Aung San Suu Kyi and Myanmar’s civilian government had no control over the Tatmadaw. It is unclear to what extent they could have influenced its ongoing genocide. However, Aung San Suu Kyi not only failed to condemn the Tatmadaw, she actively defended it.⁶³ Although the Nobel Peace Prize laureate’s defense of the Tatmadaw is heartbreaking for many, perhaps it should not be entirely surprising. The Rohingya are widely reviled in

myanmar-new-evidence-of-systematic-campaign-to-terrorize-and-drive-rohingya-out/.

55. ATROCITIES, *supra* note 51, at 7.

56. *Id.* at 11.

57. Skye Wheeler, *Sexual Violence by the Burmese Military Against Ethnic Minorities, Testimony at the Tom Lantos Hum. Rts. Comm’n*, HUM. RTS. WATCH (Jul. 25, 2018), <https://www.hrw.org/news/2018/07/25/sexual-violence-burmese-military-against-ethnic-minorities>.

58. *Burma: 40 Rohingya Villages Burned Since October*, HUM. RTS. WATCH (Dec. 17, 2017), <https://www.hrw.org/news/2017/12/18/burma-40-rohingya-villages-burned-october>.

59. *Burma: Scores of Rohingya Villages Bulldozed*, HUM. RTS. WATCH (Feb. 23, 2018), <https://www.hrw.org/news/2018/02/23/burma-scores-rohingya-villages-bulldozed>.

60. MOHSHIN HABIB ET AL., ONTARIO INTERNATIONAL DEVELOPMENT AGENCY, FORCED MIGRATION OF ROHINGYA: THE UNTOLD EXPERIENCE 68 (2018), <https://nla.gov.au/nla.obj-748001039/view>.

61. *Myanmar: Fresh Evidence of Ongoing Ethnic Cleansing as Military Starves, Abducts, and Robs Rohingya*, AMNESTY INT’L (Feb. 7, 2018), <https://www.amnesty.org/en/latest/news/2018/02/myanmar-fresh-evidence-of-ongoing-ethnic-cleansing-as-military-starves-abducts-robs-rohingya/>.

62. *Rohingya Refugee Crisis Explained*, UNHCR (Aug. 23, 2023), <https://www.unrefugees.org/news/rohingya-refugee-crisis-explained/>.

63. Marlise Simons & Hannah Beech, *Aung San Suu Kyi Defends Myanmar Against Rohingya Genocide Accusations*, N.Y. TIMES (Dec. 11, 2019), <https://www.nytimes.com/2019/12/11/world/asia/aung-san-suu-kyi-rohingya-myanmar-genocide-hague.html>.

Myanmar, and the Tatmadaw's operations against them have enjoyed broad national support.⁶⁴ Not only would any domestic efforts to hold the Tatmadaw accountable have likely been futile, they would have risked a loss of political support for the NLD and could even have prompted the Tatmadaw to increase its control over the country.⁶⁵

Unfortunately, as long as the Tatmadaw remains in power, international mechanisms for accountability are relatively limited. While the Office of the Prosecutor of the International Criminal Court requested, and was granted, authorization to investigate crimes against the Rohingya, the Court's jurisdiction is limited to crimes that were "allegedly committed at least in part on the territory of Bangladesh."⁶⁶ Other efforts to hold members of the Tatmadaw accountable include a case brought by The Gambia against Myanmar in the International Court of Justice (ICJ) alleging violations of the Genocide Convention⁶⁷ and an investigation launched by the Federal Criminal Court of Argentina under the principle of universal jurisdiction.⁶⁸ However, regardless of how these cases and investigations turn out, enforcement will remain a challenge as long as the Tatmadaw retains control over the government. The Tatmadaw is unlikely to turn its members over to an international or foreign court. Nor can an ICJ judgment be given effect without the cooperation of the Burmese government. Return to a democratic, civilian government is a prerequisite for holding the Tatmadaw accountable for its crimes and for ensuring that reparations are made to the Rohingya.

64. SELTH, *supra* note 17, at 477.

65. *Id.* at 477–78.

66. *Information for Victims: Bangladesh/Myanmar*, ICC, <https://www.icc-cpi.int/victims/bangladesh-myanmar> (last visited Apr. 14, 2024). While Bangladesh is a State Party to the Rome Statute, Myanmar is not. The Court has jurisdiction only over crimes committed by a State Party's nationals or on a State Party's territory. Press Release, *ICC Judges Authorise Opening of an Investigation into the Situation in Bangladesh/Myanmar*, ICC (Nov. 14, 2019), <https://www.icc-cpi.int/news/icc-judges-authorise-opening-investigation-situation-bangladesh/myanmar>.

67. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Gam. v. Myan.)*, Application Instituting Proceedings and Request for Provisional Measures, I.C.J. Doc. No. 178020191111-APP-01-00-EN (Nov. 11, 2019); see *Developments in Gambia's Case Against Myanmar at the International Criminal Court*, HUM. RTS. WATCH (Feb. 14, 2022), <https://www.hrw.org/news/2022/02/14/developments-gambias-case-against-myanmar-international-court-justice>.

68. INDEP. INVESTIGATIVE MECHANISM MYAN., *Universal Jurisdiction: The Case in Argentina*, <https://iimm.un.org/universal-jurisdiction/> (last visited Apr. 14, 2024).

C. The 2021 Coup

Although Aung San Suu Kyi remained overwhelmingly popular with Burmese voters in the run-up to the 2020 general election,⁶⁹ many were disappointed in the NLD's management of the economy and lack of success advancing the peace process with ethnic armed groups.⁷⁰ As the election drew closer, signs of trouble began to appear. On October 16, 2020, Myanmar's Union Election Commission (UEC) announced it was canceling voting in fifteen townships and in certain parts of forty-two others, citing "security concerns."⁷¹ Worries about the UEC's lack of transparency were exacerbated by the fact that many of the affected townships were strongholds of minority ethnic parties.⁷²

In the 2020 general election, the NLD captured 397 of a total of 476 seats in the Pyidaungsu Hluttaw.⁷³ The USDP immediately complained of "mass electoral fraud," and when the UEC failed to act, the Tatmadaw launched an investigation.⁷⁴ Upon concluding its investigation, the Tatmadaw claimed it unearthed more than 70,000 voter list irregularities that were evidence of fraud.⁷⁵ Although domestic election observers put out a joint statement declaring the elections were "credible and reflected the will of the majority of the voters,"⁷⁶ the Tatmadaw launched a coup d'état on February 1, 2021.⁷⁷ Using their own alle-

69. See, e.g., *Myanmar Sets Nov. 8 for Election Testing Democratic Reforms*, REUTERS (Jul. 1, 2020), <https://www.reuters.com/article/us-myanmar-election/myanmar-sets-november-8-for-election-testing-democratic-reforms-idUSKBN24266S/>.

70. See Nan Lwin, *Myanmar's Ethnic Parties Find Strength in Unity as They Prepare for General Election*, THE IRRAWADDY (Jun. 19, 2020), <https://www.irrawaddy.com/election-2020/myanmars-ethnic-parties-find-strength-unity-prepare-general-election.html> (quoting ethnic party leaders expressing their disappointment in the NLD).

71. *Myanmar: Election Commission Lacks Transparency*, HUM. RTS. WATCH (Oct. 28, 2020), <https://www.hrw.org/news/2020/10/28/myanmar-election-commission-lacks-transparency>.

72. *Id.*

73. Hannah Beech & Saw Nang, *Myanmar Election Delivers Another Decisive Win for Aung San Suu Kyi*, N.Y. TIMES (Nov. 11, 2020), <https://www.nytimes.com/2020/11/11/world/asia/myanmar-election-aung-san-suu-kyi-results.html>.

74. San Yamin Aung, *Myanmar Military Launches Review of Election After Proxy Party Cries Foul*, IRRAWADDY (Dec. 1, 2020), <https://www.irrawaddy.com/election-2020/myanmar-military-launches-review-election-proxy-party-cries-foul.html>.

75. San Yamin Aung, *Myanmar Military Claims to Find over 70,000 Irregularities on Voter Lists*, IRRAWADDY (Dec. 24, 2020), <https://www.irrawaddy.com/election-2020/myanmar-military-claims-find-70000-irregularities-voter-lists.html>.

76. *Joint Statement by Domestic Election Observer Organizations*, PEOPLE'S ALLIANCE FOR CREDIBLE ELECTIONS (Jan. 29, 2021), <https://www.pacemyanmar.org/mmobservers-statement-eng/>. Several months later, independent observers from the Asian Network for Free Elections also reported the election represented the will of the people of Myanmar and called the Tatmadaw's decision to ignore the results "indefensible." *Myanmar Election: No Evidence of Fraud in 2020 Vote, Observers Say*, BBC (May 17, 2021), <https://www.bbc.com/news/world-asia-57144397>.

77. *Myanmar: Military Coup Kills Fragile Democracy*, HUM. RTS. WATCH (Feb. 1, 2021),

gations of electoral fraud as a justification, the Tatmadaw declared a one-year state of emergency and arrested dozens of activists and political leaders, including Aung San Suu Kyi and President Win Myint.⁷⁸ The Tatmadaw then began to govern the country through its newly created State Administration Council (SAC).⁷⁹

In response, hundreds of thousands of protestors immediately mobilized to demand a return to civilian rule and were met with brutal force.⁸⁰ The SAC carried out arbitrary arrests and fired on unarmed protestors, killing dozens.⁸¹ As the protests grew, the SAC took additional steps, including imposing curfews, blocking access to social media, and even shutting down the internet entirely.⁸² The Civil Disobedience Movement (CDM) continued to grow, however, and thousands of professionals—including medical personnel, educators, civil servants, and others—refused to work, closing hospitals, shutting down trains, and making life difficult for the SAC.⁸³ At one point, the CDM had more than 360,000 members.⁸⁴

Meanwhile, the elected representatives to the Pyidaungsu Hluttaw who had not been detained created the Committee Representing Pyidaungsu Hluttaw (CRPH) to serve as the country's legitimate government.⁸⁵ With over 300 elected representatives from multiple political parties, the CRPH had a strong claim to democratic legitimacy.⁸⁶ In April 2021, the CRPH created the National Unity Government (NUG), to which they appointed a full cabinet of ministers.⁸⁷ As existing militias persisted and new armed resistance groups began to organize, the NUG created a nationwide armed wing called the People's Defence Force (PDF).⁸⁸ The PDF, often working together with ethnic armed

<https://www.hrw.org/news/2021/02/01/myanmar-military-coup-kills-fragile-democracy>.

78. *Id.*

79. Press Release, U.S. Dep't of the Treasury, *Treasury Sanctions Governing Body, Officials, and Family Members Connected to Burma's Military* (May 17, 2021), <https://home.treasury.gov/news/press-releases/jy0180>.

80. *Timeline: The Month Since Myanmar's February 1 Coup*, AL JAZEERA (Feb. 23, 2021), <https://www.aljazeera.com/news/2021/2/23/timeline-of-events-in-myanmar-since-february-1-coup>.

81. *Id.*

82. *Id.*

83. Joshua Carroll, *How Myanmar's Popular Uprising Aims to Topple Military Rulers*, AL JAZEERA (Feb. 13, 2021), <https://www.aljazeera.com/news/2021/2/13/how-myanmars-popular-uprising-aims-to-topple-the-junta>.

84. Anthony Ware & Monique Skidmore, *Post-Coup Myanmar's Political and Humanitarian Crises*, AFTER THE COUP: MYANMAR'S POLITICAL AND HUMANITARIAN CRISES 1, 6 (Anthony Ware & Monique Skidmore eds., 2023).

85. *Id.* at 5.

86. *Id.*

87. *Id.*

88. *Id.* at 7.

organizations (EAOs), have waged a guerilla war against the SAC ever since.⁸⁹

Since the coup, the SAC has justified its control over Myanmar by extending the state of emergency every six months.⁹⁰ While it has stated it intends to hold elections in the future, over forty political parties (including the NLD) have been dissolved, and General Min Aung Hlaing told Russia's TASS news agency that the elections might not be nationwide.⁹¹ In the meantime, the SAC has arrested over 29,000 political prisoners since the coup and has killed over 6,700 civilians.⁹² The SAC has also committed war crimes and crimes against humanity, including the targeting of civilians, use of cluster munitions, summary executions, torture, and restricting humanitarian aid to conflict areas.⁹³ The toll on Myanmar's general population has been enormous: there are currently 2.8 million internally displaced persons in Myanmar,⁹⁴ and 18.6 million people (roughly one-third of Myanmar's entire population) need humanitarian aid.⁹⁵

II. THE LOGIC BEHIND ECONOMIC SANCTIONS

The use of economic sanctions is highly controversial. Proponents see economic sanctions as a low-risk but powerful tool that can be used to alter a State's behavior without resorting to armed intervention. Critics, however argue that economic sanctions are rarely successful and that they cause unacceptable harm to the target State's general population. This Part will begin by explaining why States resort to economic sanctions and how they are meant to function in theory. It will then address the legality of economic sanctions under international law. It will continue by examining the debate around the effectiveness of economic sanctions and then note why economic sanctions often

89. Joshua Kurlantzick, *Myanmar's Junta Is Losing the Civil War*, COUNCIL ON FOREIGN RELS. (Jun. 27, 2023), <https://www.cfr.org/article/myanmars-junta-losing-civil-war>.

90. *Chairman of the State Administration Council Prime Minister Senior General Min Aung Hlaing Receives ITAR-TASS Media of Russian Federation*, GLOB. NEW LIGHT OF MYANMAR (MAR. 25, 2024), <https://www.gnlm.com.mm/chairman-of-the-state-administration-council-prime-minister-senior-general-min-aung-hlaing-receives-itar-tass-media-of-russian-federation/>.

91. *Id.*

92. *Daily Briefing Since Coup*, ASSISTANCE ASS'N FOR POL. PRISONERS (BURMA), <https://aappb.org/> (last visited May 29, 2025).

93. *World Report 2024: Myanmar*, HUM. RTS. WATCH, <https://www.hrw.org/world-report/2024/country-chapters/myanmar> (last visited Apr. 14, 2024).

94. *Myanmar Humanitarian Update No. 37*, OCHA (APR. 5, 2024), <https://www.unocha.org/publications/report/myanmar/myanmar-humanitarian-update-no-37-5-april-2024>.

95. *Myanmar Humanitarian Update No. 35*, OCHA (Jan. 12, 2024), <https://www.unocha.org/publications/report/myanmar/myanmar-humanitarian-update-no-35-2023-year-review>.

fail. Finally, it will explore the humanitarian ramifications of economic sanctions.

A. Why States Use Economic Sanctions

1. The Appeal of Economic Sanctions for Sending States

While there is no universally accepted definition of economic sanctions,⁹⁶ the vast majority of definitions have three elements in common. (1) A sending State (2) seeks to create economic harm (3) in a target State. Many definitions also include an additional element: that the goal of economic sanctions is to alter the behavior of the target State or an entity therein.⁹⁷ Note that not all economic sanctions are necessarily imposed with the ultimate goal of altering the target State's behavior, as will be explored further in Section II.B. Yet, in theory, economic sanctions work because “[i]mpos[ing] an economic loss on the target country by restricting international commerce (e.g., embargo trade, restrict investment, limit development or humanitarian assistance)” will result in political discontent.⁹⁸ This discontent will then force the target State's leaders to alter the disliked policy or behavior.⁹⁹

Economic sanctions have appeal for several reasons. First of all, they can be imposed quite quickly. For example, the U.S. imposed new sanctions on Russia a mere two days after it invaded Ukraine in 2022.¹⁰⁰ Economic sanctions thus allow the sending State to take almost immediate action. In this sense, economic sanctions also permit sending States

96. See, e.g., Lt. Col. Susan S. Gibson, *International Economic Sanctions: The Importance of Government Structures*, 13 EMORY INT'L L. REV. 161, 165–66 (1999) (noting the differences in how various scholars define economic sanctions).

97. Dianne Rennack provides a representative definition of economic sanctions: “Economic sanctions are coercive measures imposed by one country, or coalition of countries, against another country, its government, or entities therein, to bring about a change in behavior or policies.” ECONOMIC SANCTIONS: LEGISLATION IN THE 106TH CONG. (2000); see, e.g., *What Are Sanctions*, GOV'T OFF. OF SWED., <https://www.government.se/government-policy/foreign-and-security-policy/international-sanctions/what-are-sanctions/> (last visited Dec. 22, 2024) (defining sanctions as “economic and political measures that aim to influence the behavior of a state, a group, or individuals.”).

98. HOSSEIN G. ASKARI ET AL., ECONOMIC SANCTIONS: EXAMINING THEIR PHILOSOPHY AND EFFICACY 64 (2003).

99. *Id.*

100. AGATHE DEMARAIS, BACKFIRE: HOW SANCTIONS RESHAPE THE WORLD AGAINST U.S. INTERESTS, at x (2022). The International Emergency Economic Powers Act grants the President the authority to impose sanctions if he or she declares a national emergency with respect to a specific threat. This can be done extremely quickly. The President issues an executive order declaring a national emergency and authorizing the Office of Foreign Assets Control (OFAC) to implement sanctions. OFAC then acts by adding targeted entities to its Specially Designated Nationals (SDN) List or its Non-SDN Consolidated Sanctions List.

to be very responsive to developments in the target State. They can impose new sanctions or remove existing ones as new events unfold.

In addition, governments of sending states often view economic sanctions as low-cost, requiring “[o]nly a handful of civil servants” to implement.¹⁰¹ Critics of this view have argued that economic sanctions create significant costs for domestic businesses whose interests are connected to the sanctioned entities. In the late 1990s, for example, the National Foreign Trade Council launched a front group called USA*Engage, which initiated a lobbying and public relations campaign against the U.S. imposition of economic sanctions.¹⁰² USA*Engage argued that economic sanctions cost U.S. businesses and workers between \$15–20 billion per year and resulted in 200,000 lost jobs.¹⁰³ While some scholars have criticized these statistics as “unsubstantiated,” there is no doubt that “[t]rade sanctions may impose very significant costs on individual companies, and these costs may raise issues of fairness and the appropriateness of compensation.”¹⁰⁴ Indeed, economic sanctions may harm the sending State through “lost export markets, denial of critical imports, lower prices received for embargoed exports, and higher prices paid for substitute imports.”¹⁰⁵ However, because these costs are mostly dispersed across private entities, economic sanctions still have a lot of appeal for a sending State that is mindful of its bottom line. In fact, as Lt. Col. Susan Gibson points out, under the “well-recognized doctrine of ‘public choice’ . . . government officials will act rationally to maximize benefits to themselves while externalizing costs onto others.”¹⁰⁶ It may, indeed, be rational for governments to think of economic sanctions as low-cost when the economic burden is borne primarily by corporations.

Economic sanctions also have expressive value. They signal to both the sending State’s political constituency and the international community that the sending State condemns something the target State is doing.¹⁰⁷ Government policymakers “usually assume that other countries are watching and . . . they care about the image those countries

101. *Id.*

102. Ken Silverstein, *So You Want to Trade with a Dictator*, MOTHER JONES (Apr. 28, 1998), <https://www.motherjones.com/politics/1998/05/so-you-want-trade-dictator/>.

103. Richard W. Parker, *The Problem with Scorecards: How (and How Not) to Measure the Cost-Effectiveness of Economic Sanctions*, 21 MICH. J. INT’L L. 235, 237–38 (2000).

104. *Id.* at 238.

105. ECONOMIC SANCTIONS RECONSIDERED, *supra* note 7, at 28.

106. Gibson, *supra* note 96, at 186.

107. *See, e.g.*, ASKARI ET AL., *supra* note 98, at 94.

have of them.”¹⁰⁸ The sending State might wish to be seen as concerned with human rights or as distancing itself from a certain undesirable behavior. Its government might wish to signal to its own constituents that it has certain values it is willing to stand up for.¹⁰⁹ The sending State might even wish simply to punish the target State and send a message to the rest of the world that there will be consequences for certain behaviors.¹¹⁰ Some have argued that the United States, in particular, uses economic sanctions to demonstrate its moral leadership, where the cost of inaction would be “lost confidence both at home and abroad.”¹¹¹

Perhaps most importantly, however, economic sanctions have appeal because they have real coercive power without having to resort to armed force. Economic sanctions go further than mere diplomatic protest because they alter the economic situation in the target State, which can create a very tangible change in the target State’s material conditions. And yet, they do not (usually) risk starting a war or taking human lives. Economic sanctions thus appear to be a sort of middle ground. As former Secretary of State John Foster Dulles put it, “The great advantage of economic sanctions is that on the one hand they can be very potent, while on the other hand they do not involve that resort to force which is repugnant to our objective of peace.”¹¹² Of course, economic sanctions can cause as much, or even more, harm than armed intervention. This concern will be explored further in Section II.E.

2. How Sending States Use Economic Sanctions

Economic sanctions can take many forms. They generally work by “limiting exports . . . restricting imports; [or] by impeding finance, including the reduction of aid.”¹¹³ Furthermore, they may be unilateral (imposed by a single State) or multilateral (imposed by multiple States). One of the oldest and most basic forms of economic sanctions is the trade embargo.¹¹⁴ Embargoes take the form of “a ban on

108. David A. Baldwin, *Prologomena to Thinking About Economic Sanctions and Free Trade*, 4 CHICAGO J. INT’L L. 271, 275 (2003).

109. See, e.g., Katniss Xuejiao Li, *Performative Economic Sanctions: How Sanctions Work Without Economic Harm*, 15 HARV. NAT’L SEC. J. 327, 363–65 (2024) (arguing China and Russia frequently impose retaliatory sanctions designed to appeal to nationalist audiences while causing minimal economic harm).

110. See, e.g., ASKARI ET AL., *supra* note 98, at 95.

111. GARY CLYDE HUFBAUER ET AL., *ECONOMIC SANCTIONS RECONSIDERED* 5 (3d ed. 2007) [hereinafter *ECONOMIC SANCTIONS RECONSIDERED* 3d ed.].

112. Gibson, *supra* note 96, at 161 (footnote omitted) (quoting M.S. DAUDI & M.S. DAJANI, *ECONOMIC SANCTIONS: IDEALS AND EXPERIENCE* 26 (1983)).

113. *ECONOMIC SANCTIONS RECONSIDERED*, *supra* note 7, at 28.

114. See, e.g., GEOFF SIMONS, *IMPOSING ECONOMIC SANCTIONS: LEGAL REMEDY OR GENOCIDAL TOOL?* 8–13 (1999) (defining trade embargoes and providing several historical examples of their

the movement of goods to a foreign country by land, sea or air.”¹¹⁵ Moreover, they may be designed to restrict only a certain kind of good. Arms embargoes, for example, seek to reduce the target State’s access to weapons.¹¹⁶

Because comprehensive trade embargoes can do broad damage to a target State’s economy, resulting in significant harm to the general population, sending States often attempt to use “smart” or more targeted forms of economic sanctions.¹¹⁷ These can include other forms of trade sanctions, such as more targeted restrictions on specific imports or exports. They might also include travel sanctions or financial sanctions on specific entities or individuals. Financial sanctions can also take numerous forms, such as asset freezes, restricting access to financial markets, loans, and credit, or restricting or freezing development aid.¹¹⁸ Also critical to smart sanctions is the notion that they “should be periodically reviewed, and ended if ineffective.”¹¹⁹ The idea is that smart sanctions should be adaptable and respond to the circumstances.¹²⁰ If sanctions are doing unjustifiable harm to the general population, then they must be altered.

B. The Legality of Economic Sanctions

The legality of economic sanctions is far from clear-cut. Even if economic sanctions are not illegal per se, there is considerable debate over which legal standards should be used to evaluate the legality of a specific sanctions regime.¹²¹ Scholars have proposed applying international humanitarian law, human rights law, and countermeasure law.¹²² This Section will look briefly at customary international law and international court cases. It will then examine the legality of economic sanctions under the U.N. Charter.

The legality of economic sanctions under customary international law is often debated. On the one hand, there is the view that unilateral

use).

115. *Id.* at 8.

116. See, e.g., Gary C. Hufbauer & Barbara Oegg, *Targeted Sanctions: A Policy Alternative*, 32 L. & POL’Y IN INT’L BUS. 11, 12 (2000) (discussing arms embargoes as a form of targeted sanctions).

117. See David S. Koller & Miriam Eckenfels-Garcia, *Using Targeted Sanctions to End Violations Against Children in Armed Conflicts*, 33 Bos. U. INT’L L.J. 1, 17–18 (2015).

118. See, e.g., Hufbauer & Oegg, *supra* note 116, at 15.

119. Michael Brzoska, *From Dumb to Smart? Recent Reforms of UN Sanctions*, 9 GLOB. GOVERNANCE 519, 522 (2003).

120. *Id.*

121. Armin Steinbach et al., *Economic Sanctions and Human Rights: Quantifying the Legal Proportionality Principle*, 36 HARV. HUM. RTS. J. 1, 6 (2023).

122. *Id.*

economic sanctions are always illegal under customary international law. This argument holds that “all ‘coercive measures’ are unlawful; that is, measures which are coercive in the sense of seeking to require the target State to change its policies on any matter within its domestic jurisdiction, in particular with regard to its political, economic and social system.”¹²³ This view finds support in nonbinding soft law instruments, such as the Friendly Relations Declaration¹²⁴ and the Charter of Economic Rights and Duties of States.¹²⁵ This is also the view adopted by many developing countries.¹²⁶

On the other hand, unilateral economic sanctions remain widespread.¹²⁷ It would be difficult to argue that state practice and *opinio juris* support the notion that economic sanctions constitute a violation of customary international law. Indeed, many scholars argue that “a State’s freedom includes the liberty to revise its relations with other States as it pleases providing no specific legal obligations are breached

123. Matthew Happold, *Economic Sanctions and International Law: An Introduction, in ECONOMIC SANCTIONS AND INTERNATIONAL LAW: LAW AND PRACTICE 3* (Matthew Happold & Paul Eden eds., 2016).

124. G.A. Res. 2625 (XXV), Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations (Oct. 24, 1970) (“No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights”).

125. G.A. Res. 3281 (XXIX), art. 32 (Dec. 12, 1974) (“No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights.”).

126. See Mergen Doraev, *The “Memory Effect” of Economic Sanctions Against Russia: Opposing Approaches to the Legality of Unilateral Sanctions Clash Again*, 37 U. PENN. J. INT’L L. 355, 375 (2015).

The opposition of developing countries to economic sanctions has been expressed in a series of twenty-seven U.N. General Assembly resolutions passed since 1983 with nearly identical language. Myanmar has voted yes for each of these resolutions. See G.A. Res. 38/197, U.N. Doc. A/RES/38/197 (Dec. 20, 1983); See G.A. Res. 39/210, ¶¶ 1–2 (Dec. 18, 1984); See G.A. Res. 40/185, ¶¶ 1–2 (Dec. 17, 1985); See G.A. Res. 41/165, ¶¶ 1–3 (Dec. 5, 1986); See G.A. Res. 42/173, ¶¶ 1–3 (Dec. 11, 1987); See G.A. Res. 44/215, ¶¶ 2–5 (Dec. 22, 1989); See G.A. Res. 46/210, ¶¶ 1–3 (Dec. 20, 1991); See G.A. Res. 48/168, ¶ 1 (Dec. 21, 1993); See G.A. Res. 50/96, ¶ 2 (Dec. 20, 1995); See G.A. Res. 51/22, ¶¶ 1–3 (Nov. 27, 1996); See G.A. Res. 52/181, ¶ 2 (Dec. 18, 1997); See G.A. Res. 53/10, ¶¶ 2–5, 7 (Oct. 26, 1998); See G.A. Res. 54/200, ¶ 2 (Dec. 22, 1999); See G.A. Res. 55/6, ¶¶ 3–5, 7 (Oct. 26, 2000); See G.A. Res. 56/179, ¶ 2 (Dec. 21, 2001); See G.A. Res. 57/5, ¶¶ 3–5, 7 (Oct. 16, 2002); See G.A. Res. 58/198, ¶ 2 (Dec. 23, 2003); See G.A. Res. 60/185, ¶ 2 (Dec. 22, 2005); See G.A. Res. 62/183, ¶¶ 2–3 (Dec. 19, 2007); See G.A. Res. 64/189, ¶¶ 2–3 (Dec. 21, 2009); See G.A. Res. 66/186, ¶¶ 2–3 (Dec. 22, 2011); See G.A. Res. 68/200, ¶¶ 2–3 (Dec. 20, 2013); See G.A. Res. 70/185, U.N. Doc. A/RES/70/185 (Dec. 22, 2015); See G.A. Res. 72/201, U.N. Doc. A/RES/72/201 (Dec. 20, 2017); See G.A. Res. 74/200, U.N. Doc. A/RES/74/200 (Dec. 19, 2019); See G.A. Res. 76/191, U.N. Doc. A/RES/76/191 (Dec. 17, 2021); See G.A. Res. 78/135, U.N. Doc. A/RES/78/135 (Dec. 19, 2023).

127. See, e.g., ASKARI ET AL., *supra* note 98 (detailing many instances of unilateral economic sanctions throughout history).

in doing so”¹²⁸ States may thus conduct their trade relations with other States as they see fit as long as they do not violate any binding provisions of international law (e.g., treaty obligations). As the International Court of Justice noted in *Nicaragua v. United States*, “Every State possesses a fundamental right to choose and implement its own political, economic, and social systems.”¹²⁹ Although the U.S. imposed harmful economic measures on Nicaragua with the intention of inducing regime change, the ICJ found this behavior did not constitute intervention and did not amount to an illegal act.¹³⁰

It is worth noting here that the legality of secondary sanctions is particularly controversial. Secondary sanctions are “any form of economic restriction imposed by a . . . sending state . . . that is intended to deter a third-party country or its citizens and companies . . . from transacting with a sanctions target”¹³¹ The controversy stems from the issue of extraterritoriality. While primary sanctions might be viewed as a sending State regulating the economic activities of entities within its own territorial jurisdiction, secondary sanctions are often seen as the sending State seeking to regulate the economic activities of entities within a third-party State’s territorial jurisdiction. Although there is no authoritative statement of international law on the matter, Jeffrey Meyer asserts “an international consensus does appear to be building that the unilateral extraterritorial application of these controls to third parties is impermissible.”¹³² The E.U., for instance, has condemned the “extra-territorial” application of sanctions,¹³³ and the U.N. Human Rights Council has stated the extraterritorial effect “contravene[es] the basic principles of international law”¹³⁴ Other

128. Happold, *supra* note 123, at 3; see also Anna Ventouratou, *Litigating Economic Sanctions*, 21 L. & PRAC. INT’L CTS. & TRIBUNALS 593, 600 (“States are not prohibited under general international law to exert pressure on other States through the imposition of unfavourable economic measures.”).

129. Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicar. V. U.S.), Judgment, 1986 I.C.J. 131, ¶ 258 (June 27).

130. *Id.* at 126, ¶ 245.

131. Jeffrey A. Meyer, *Second Thoughts on Secondary Sanctions*, 30 U. PENN. J. INT’L L. 905, 926 (2009).

132. *Id.* at 933.

133. Council of the European Union, Guidelines on Implementation and Evaluation of Restrictive Measures (Sanctions) in the Framework of the EU Common Foreign and Security Policy, 2005, 15114/05 PESC 1084 FIN 475, at ¶ 47.

134. Human Rights Council Res. 40/3, U.N. Doc. A/HRC/RES/40/3, at 2 (Apr. 5, 2019); see also Leonardo Borlini, *Bank Melli Iran v. Telekom Deutschland GMBH*, C-124/20, 118 AM. J. INT’L L. 160, 165 (2024) (noting that “blocking statutes, and particularly the EU Blocking Regulation, set out milestones that crystallize a controversy over the legality of U.S. secondary sanctions, and may contribute to the formation of a rule of customary international law”).

scholars disagree,¹³⁵ and, certainly the U.S. continues to utilize secondary sanctions.¹³⁶ Regardless of where one stands, there is no doubt that secondary sanctions are particularly controversial and can lead to diplomatic complications with affected third-party states.

In addition to unilateral sanctions, the United Nations Security Council may issue binding resolutions calling upon U.N. member states to impose sanctions on a target State. If the Security Council decides that there is a “threat to the peace, breach of the peace, or act of aggression” under Article 39 of the U.N. Charter, then it may, under Article 41, impose a “complete or partial interruption of economic relations”¹³⁷ Furthermore, Article 42 authorizes the Security Council to “take such action by land, sea, or air forces as may be necessary,” including the imposition of a blockade.¹³⁸ Member states are obliged to “accept and carry out the decisions of the Security Council,”¹³⁹ even if they conflict with “their obligations under any other international agreement”¹⁴⁰ In fact, the Security Council has imposed economic sanctions regimes thirty-one times since 1966, fourteen of which are ongoing.¹⁴¹

There is debate around whether or not the Security Council is bound by international law in its use of economic sanctions. Some maintain that the Security Council is entirely unbound by standards of international law.¹⁴² Others argue Article 24(2) of the Charter (which provides “the Security Council shall act in accordance with the Purposes and Principles of the United Nations”) indicates the Security Council must not act contrary to the fundamental principles of human rights.¹⁴³ What Article 24(2) means is, in turn, subject to debate. However, one frequent argument is that economic sanctions—even when imposed by

135. See, e.g., Meyer, *supra* note 131, at 967 (arguing secondary sanctions should be seen as “presumptively permissible as a matter of customary jurisdictional law.”).

136. See, e.g., Exec. Order No. 13846, 83 Fed. Reg. 38939 (Aug. 6, 2018) (imposing secondary sanctions on individuals and entities doing business with Iran).

137. U.N. Charter arts. 39, 41.

138. U.N. Charter art. 42.

139. U.N. Charter art. 25.

140. U.N. Charter art. 103.

141. *Sanctions*, U.N. SEC. COUNCIL, <https://www.un.org/securitycouncil/sanctions/> information (last visited May 29, 2025).

142. Mary Ellen O’Connell, *Debating the Law of Sanctions*, 13 EUR. J. INT’L L. 63, 70 (2002).

143. See, e.g., Padraic Foran, *Why Human Rights Confuse the Sanctions Debate: Towards a Goal-Sensitive Framework for Evaluating United Nations Security Council Sanctions*, 4 INTERCULTURAL HUM. RTS. L. REV. 123, 129 (2009).

the Security Council—are subject to the international humanitarian law principles of necessity and proportionality.¹⁴⁴

Some argue the principles of necessity and proportionality should also be applied to unilateral economic sanctions to determine their legality.¹⁴⁵ To be considered necessary, the sending State must have a “legitimate goal,” and the sanctions must “reasonably be expected to achieve [the sending State’s] objective.”¹⁴⁶ Some scholars argue that economic sanctions only meet the criterion of necessity if they are the “least-intrusive means” of achieving this objective.¹⁴⁷ In addition, to be considered proportional, the harmful effects of economic sanctions must not outweigh the benefit the sending State hopes to achieve.¹⁴⁸ Of course, there is no consensus on how to measure necessity and proportionality. Moreover, if economic sanctions are considered under countermeasure law, “proportionality means that . . . sanctions should focus on the wrongdoer.”¹⁴⁹ Sanctions that target the general population in addition to the individual wrongdoers would thus not meet the standard of proportionality.

C. Do Economic Sanctions Actually Work?

The effectiveness of economic sanctions is hotly debated. The question is complicated by a lack of agreement about what constitutes an instance of economic sanctions, what constitutes success, and what methodologies should be employed to analyze effectiveness. Two things are clear, however. First, economic sanctions *can* work; and second, they can also have devastating humanitarian consequences. This Section will lay out the difficulties in analyzing the effectiveness of economic sanctions and provide a brief overview of the debate over whether economic sanctions are generally effective. It will then discuss the various factors that contribute to success.

1. Measuring the Effectiveness of Economic Sanctions

The first challenge when analyzing the effectiveness of economic sanctions is deciding what constitutes an instance of economic sanctions to begin with. This difficulty explains why different studies of

144. See O’Connell, *supra* note 142, at 73–74.

145. See, e.g., Steinbach et al., *supra* note 121, at 6–10 (explaining how the principles of necessity and proportionality apply to international humanitarian, human rights, and countermeasure law).

146. *Id.* at 11–12.

147. *Id.* at 11.

148. *Id.* at 13.

149. O’Connell, *supra* note 142, at 78.

sanctions have different case counts.¹⁵⁰ For example, when multiple sets of sanctions are imposed over a long period of time against a single target State, it is rarely clear whether these sanctions should be considered a single case or “analytically separated out as ‘episodes’ differentiated by changes in the combinations of sanctions imposed, shifting objectives, and broader strategic context.”¹⁵¹ A similar problem arises when sanctions target individual persons or entities within a target State.¹⁵² It is difficult to determine whether a newly imposed sanction targeting a new individual should be considered part of the same sanctions case or as a separate episode.

Further difficulties are presented by what Bruce Jentleson refers to as “informal cued sanctions” and “civil society-initiated sanctions.”¹⁵³ Informal cued sanctions occur when a country “cues” domestic consumers and businesses to boycott or exert other forms of pressure on an entity.¹⁵⁴ China, for example, used patriotism to “cue” its citizens to boycott H&M after the latter stated it would no longer buy cotton from Xinjiang due to Uyghur forced labor.¹⁵⁵ Similarly, civil society-initiated sanctions consist of businesses and consumers independently deciding to boycott certain entities within the target State.¹⁵⁶ After Russia invaded Ukraine, for example, “the New York City Metropolitan Opera cut[. . .] ties with a Russian soprano, [and] Eurovision bann[ed] Russian contestants”¹⁵⁷ It is not clear when—if ever—these civil decisions should be considered in analyses of the effectiveness of economic sanctions.

In addition, scholars often disagree as to what constitutes success. Studies differ, for instance, on how to treat cases where the threat of sanctions alone seemed to have altered the target State’s behavior. In 1921, for example, Yugoslavia invaded Albania.¹⁵⁸ The League of Nations was set to meet to discuss imposing economic sanctions on Yugoslavia, but Yugoslavia preemptively withdrew its troops from Albania citing the threat of international economic pressure.¹⁵⁹ Daniel Drezner theorized that because “actors have an incentive to reach an

150. See BRUCE JENTLESON, SANCTIONS: WHAT EVERYONE NEEDS TO KNOW 20 (2022).

151. *Id.* at 20.

152. *Id.* at 21.

153. *Id.*

154. *Id.* at 126.

155. *Id.*

156. *Id.* at 21.

157. *Id.* at 21–22.

158. SIMONS, *supra* note 114, at 52.

159. *Id.*

agreement before imposition . . . the sanctions literature has grossly underestimated the utility of economic diplomacy.”¹⁶⁰ In order to properly analyze the effectiveness of economic sanctions, then, one would need to consider not just cases where sanctions were implemented but also cases where economic sanctions were threatened but not actually imposed.¹⁶¹

A similar difficulty is presented by the deterrent effects of economic sanctions on third-parties.¹⁶² Saudi Arabia, for instance, has long shown interest in obtaining nuclear weapons,¹⁶³ yet, there is no evidence that it has begun to develop its own nuclear weapons program. It is impossible to know to what extent sanctions against states like Iran and North Korea have deterred Saudi Arabia from pursuing such a program.

Another difficulty arises when economic sanctions are accompanied by the use of force. If the target State alters its behavior, it is often unclear whether it did so due to the sanctions, the use of force, or both.¹⁶⁴

Moreover, it may be difficult to determine what magnitude of change is necessary to consider economic sanctions successful. For instance, if the target State engages in several undesirable behaviors and alters only one as a result of sanctions, would this constitute a success? Alternatively, what if sanctions achieve the desired economic effect on the target State but the target State does not alter its behavior? Was it the sanctions that failed, or was it the larger policy? To address this latter source of confusion, Askari et al. propose distinguishing between economic sanctions as a tool and the larger policy that tool is meant to support.¹⁶⁵ Economic sanctions would thus refer “to the policy instrument (e.g., trade embargo, freezing assets),” and “the term ‘economic pressure’ policy . . . [would] describe the policy that attempts to pressure others to change their ways by inflicting economic losses on them.”¹⁶⁶ Although this approach has not been widely adopted, it would have the benefit of enabling the success of economic sanctions to be measured by predetermined economic metrics.

160. Daniel W. Drezner, *The Hidden Hand of Economic Coercion*, 57 INT’L ORG. 643, 644 (2003).

161. *Id.*

162. JENTILESON, *supra* note 150, at 21.

163. *See, e.g.*, Mark Urban, *Saudi Nuclear Weapons ‘On Order’ from Pakistan*, BBC (Nov. 6, 2013), <https://www.bbc.com/news/world-middle-east-24823846>.

164. *See, e.g.*, Pape, *supra* note 7, at 93 (challenging Huffbauer et al.’s assertion that 40 sanctions cases in their dataset were successful in part because 18 of those cases were accompanied by use of force).

165. ASKARI ET AL., *supra* note 98, at 83.

166. *Id.* at 83–84.

Finally, it is important to consider that different sanctions regimes often have different objectives. For example, some sanctions are designed to have primarily a punitive or symbolic effect. Should these be analyzed alongside sanctions designed to alter a target State's behavior? Or should sanctions designed to have a primarily economic effect (e.g., a salvo in a trade war) be considered alongside sanctions designed to have a political effect (e.g. regime change)?

Given the aforementioned sources of confusion, it is not surprising that there is so little agreement as to the effectiveness of economic sanctions. Even the U.S. Government—the world's most prolific sender of economic sanctions¹⁶⁷—does “not conduct agency assessments of the effectiveness of sanctions in achieving broader U.S. policy goals and cited various difficulties in doing so.”¹⁶⁸ Despite these difficulties, a number of scholars have tried to determine the actual effectiveness of economic sanctions, and several large-*N* datasets of sanctions have proven particularly influential.

Many of the initial large-*N* studies analyzing the effectiveness of economic sanctions used the dataset compiled by Hufbauer, Schott, and Elliott (commonly referred to as HSE).¹⁶⁹ The HSE dataset was originally published in 1985 and then updated in 1990 and again in 2007.¹⁷⁰ As economic sanctions became increasingly common during the 1990s, the 1990 HSE dataset was enormously influential.¹⁷¹ In the second edition of *Economic Sanctions Reconsidered*, HSE analyzed 115 cases and concluded that economic sanctions were effective 34% of the time.¹⁷² Seventeen years later, this time analyzing 174 cases, Hufbauer et al. once again concluded economic sanctions were effective 34% of the time.¹⁷³ However, the study's conclusions were challenged by Robert Pape, who claimed that “of HSE's 115 cases, only 5 are appropriately

167. See, e.g., T. Clifton Morgan et al., *Threat and Imposition of Economic Sanctions 1945–2005: Updating the TIES Dataset*, 31 CONFLICT MGMT. & PEACE SCI. 541, 545 (2014) (noting that “The USA is the primary sender in a little over 48% of . . . cases”).

168. U.S. GOV'T ACCOUNTABILITY OFF., GAO-20-145, ECONOMIC SANCTIONS: AGENCIES ASSESS IMPACTS ON TARGETS, AND STUDIES SUGGEST SEVERAL FACTORS CONTRIBUTE TO SANCTIONS' EFFECTIVENESS 12 (2019).

169. Morgan et al., *supra* note 167, at 542.

170. See ECONOMIC SANCTIONS RECONSIDERED, *supra* note 7; HUFBAUER ET AL., ECONOMIC SANCTIONS RECONSIDERED: SUPPLEMENTAL CASE HISTORIES (2d ed. 1990) [hereinafter ECONOMIC SANCTIONS RECONSIDERED 2d ed.]; ECONOMIC SANCTIONS RECONSIDERED 3d ed., *supra* note 111.

171. See Morgan et al., *supra* note 167, at 542.

172. ECONOMIC SANCTIONS RECONSIDERED 2d ed., *supra* note 170.

173. ECONOMIC SANCTIONS RECONSIDERED 3d ed., *supra* note 111, at 2, 158.

considered successes.¹⁷⁴ In other words, Pape argued economic sanctions were effective only 4% of the time.

In 2009, Morgan, Bapat, and Krustev released a new large-*N* dataset that included 888 cases between 1971–2000.¹⁷⁵ This dataset notably included both episodes where sanctions were merely threatened and where they were actually implemented.¹⁷⁶ The dataset was then extended in 2014 to include 1412 cases between 1945–2005 where economic sanctions were threatened or implemented.¹⁷⁷ Morgan et al. found that, when cases which had not yet reached a final outcome were eliminated, 37.5% of cases resulted in “total or partial acquiescence on the part of the target.”¹⁷⁸ When the definition of success was broadened to include cases that resulted in a negotiated settlement, they found that 56% of cases were successful.¹⁷⁹

Several other important large-*N* datasets have since been compiled. In 2012, Clara Portela and Christian von Soest published the GIGA Sanctions Dataset composed of all U.S., U.N., and E.U. economic sanctions imposed on authoritarian regimes between 1990–2010.¹⁸⁰ This dataset is particularly noteworthy for separating sanctions episodes based on their objective. Sanctions aimed at democratization (e.g., regime change or new elections in the target State) were distinguished from other demands, such as combatting terrorism or the drug trade. Using the GIGA dataset, von Soest and Michael Wahman concluded that economic sanctions have a “positive, but insignificant, effect” on democratization when imposed on authoritarian target States.¹⁸¹ When only sanctions that aim to create democratic change were considered, the authors found a more significant effect whereby “the expected yearly change in democracy scores is 0.160 higher in authoritarian countries with democratic sanctions than in those without.”¹⁸²

Thomas Biersteker et al. introduced the narrower Targeted Sanctions Consortium (TSC) dataset in 2018, which focused on the 23

174. Pape, *supra* note 7, at 93.

175. Morgan et al., *The Threat and Imposition of Economic Sanctions, 1971–2000*, 26 CONFLICT MGMT. SCI. 92, 94 (2009).

176. *Id.*

177. Morgan et al., *Threat and Imposition of Economic Sanctions, 1945–2005: Updating the TIES Dataset*, 31 CONFLICT MGMT. PEACE SCI. 541, 542 (2014).

178. *Id.* at 546.

179. *Id.*

180. Clara Portela & Christian von Soest, *GIGA Sanctions Dataset*, GERMAN INST. GLOB. SANCTIONS STUD. (2012), https://search.gesis.org/research_data/SDN-10.7802-1346.

181. Christian von Soest & Michael Wahman, *Are Democratic Sanctions Really Counterproductive?*, 22 DEMOCRATIZATION 957, 967 (2015).

182. *Id.*

instances of U.N. targeted economic sanctions between 1992–2013.¹⁸³ The authors found U.N. sanctions were effective in 22% of cases.¹⁸⁴

Finally, two more comprehensive datasets were introduced in 2020. The EUSANCT Dataset, introduced by Patrick Weber and Gerald Schneider, merged and updated the HSE, TIES, and GIGA datasets.¹⁸⁵ Considering both threatened and imposed economic sanctions by the U.S., the E.U., and the U.N. between 1989–2015, the authors found there was at least partial acquiescence by the target State in 51% of cases where sanctions were actually imposed.¹⁸⁶ In contrast, The Global Sanctions Data Base (GSDB), introduced by Gabriel Felbermayr et al., extended the HSE database to 729 cases of implemented economic sanctions between 1950–2016.¹⁸⁷ Here, the authors found an “average success rate of around 34%.”¹⁸⁸

2. Factors that Affect the Success of Economic Sanctions

Of course, all of the above figures have limited predictive value. Every case is different. There is a general consensus, for instance, that unilateral economic sanctions tend to be less effective than multilateral economic sanctions. Ernest Preeg, for example, noted that “during the 1990s unilateral economic sanctions, with rare exceptions, have failed to achieve their intended foreign policy objectives”¹⁸⁹ Similarly, Askari et al. concluded “U.S. unilateral economic sanctions are an ineffective policy approach for bringing about policy changes in other countries and have poor prospects for success.”¹⁹⁰ However, when it comes to multilateral sanctions, more senders is not necessarily better. Hufbauer et al. note that the process of creating a consensus among a larger group of senders can reduce both the scope and impact of economic sanctions.¹⁹¹ They further observe that the larger the group of senders, the more difficult it is to maintain the coalition.¹⁹² Even when the Security Council has imposed mandatory economic sanctions on

183. Thomas J. Biersteker et al., *UN Targeted Sanctions Datasets (1991–2013)*, 55 J. PEACE RSCH. 404, 405 (2018).

184. *Id.* at 408.

185. Patrick M. Weber & Gerald Schneider, *Post-Cold War Sanctioning by the EU, the UN, and the US: Introducing the EUSANCT Dataset*, 39 CONFLICT MGMT. PEACE STUD. 97, 101 (2022).

186. *Id.* at 106.

187. Gabriel Felbermayr et al., *The Global Sanctions Data Base*, 129 EUR. ECON. REV. 1, 4 (2020).

188. *Id.* at 11.

189. ERNEST H. PREEG, *FEELING GOOD OR DOING GOOD WITH SANCTIONS: UNILATERAL ECONOMIC SANCTIONS AND THE U.S. NATIONAL INTEREST* 200 (1999).

190. ASKARI ET AL., *supra* note 98, at 67.

191. *ECONOMIC SANCTIONS RECONSIDERED* 3d ed., *supra* note 111, at 172.

192. *Id.*

target States, the rate of success appears to be limited. Cortright and Lopez, looking at the eleven instances of Security Council economic sanctions during the 1990s, determined they were effective only 36% of the time.¹⁹³

Other factors also affect the likelihood that economic sanctions will succeed. Economic sanctions are more likely to be successful when the sender's goal is more modest than a major policy change.¹⁹⁴ Economic sanctions are also more likely to work when imposed on allies or close trading partners—likely because they “have more to lose, diplomatically as well as economically”¹⁹⁵ The target State's form of government makes a difference too. Economic sanctions tend to be less effective against autocratic regimes than against democracies.¹⁹⁶ In fact, Agathe Demarais notes that 90% of effective economic sanctions imposed by the U.S. since the 1950s were imposed on target States with multiparty democracies.¹⁹⁷ Timing is also a factor. If economic sanctions have not worked after two years, they are much less likely to ultimately be successful.¹⁹⁸ Hufbauer et al. also note that military escalation is more likely to be avoided if sanctions are employed all at once for maximum impact rather than incrementally.¹⁹⁹

It is also worth noting that it is difficult to assess the effectiveness of targeted “smart” sanctions relative to economic sanctions generally. Because smart sanctions are a newer phenomenon, there are fewer instances to study. Even scholars who have tried to evaluate the effectiveness of smart sanctions are forced to work with relatively small sample sizes. Cortright and Lopez, for example, noted in their analysis of U.N. economic sanctions that two out of seven episodes of smart sanctions were effective (a success rate of 29%).²⁰⁰ Hufbauer and Oegg found that, out of twenty cases where smart sanctions were imposed independently of comprehensive embargoes, only five were successful (a success rate of 25%).²⁰¹ This is significantly lower than the 34% success rate Hufbauer et al. found for economic sanctions generally.

193. DAVID CORTRIGHT & GEORGE A. LOPEZ, *THE SANCTIONS DECADE: ASSESSING UN STRATEGIES IN THE 1990S*, at 204 (2000).

194. *Id.* at 163.

195. *Id.*

196. *Id.* at 166.

197. DEMARAIS, *supra* note 100, at 41.

198. *Id.* at 39.

199. *ECONOMIC SANCTIONS RECONSIDERED* 3d ed., *supra* note 111, at 168.

200. JENTLESON, *supra* note 150, at 37.

201. Hufbauer & Oegg, *supra* note 116, at 17.

D. Why Economic Sanctions Fail

There are a number of reasons economic sanctions fail to achieve their desired results. First of all, it can be difficult to achieve a sufficient political consensus to establish an adequate multilateral sanctions regime. And, then, when widespread multilateral economic sanctions are imposed, sending States may lack the capacity to enforce them. Moreover, even when sending States do have the capacity to enforce economic sanctions, target States often find ways of evading them. Finally—especially when the goal of economic sanctions is regime change—sanctions can backfire and entrench support for the government in power in the target State.

One reason economic sanctions fail is because they were inadequate to begin with. This can be a function of the difficulty of establishing a broad enough coalition of sending states to have the desired effect. If a target State's major trading partners refuse to impose economic sanctions, those sanctions that are imposed by sending States will have only a limited impact on the target's economy. Furthermore, creating a coalition of sending States requires political capital.²⁰² Even if it might otherwise be possible, sending States may not be willing to expend sufficient political capital to build a stable coalition.²⁰³

States often have crosscutting economic interests that can make coming to an agreement on a set of economic sanctions all but impossible. While it might be relatively painless for one state to impose certain sanctions on a target, the same sanctions might cause a significant disruption in trade, finance, or investment if imposed by a different state.²⁰⁴ These states might be unwilling to bear the costs of imposing economic sanctions. India, for example, has refused to impose sanctions on Russia in large part because it relies on Russia for both oil and arms.²⁰⁵

Similarly, some states may be reluctant to jeopardize political or other non-economic relationships with the target State and may be unwilling to impose adequate sanctions. Brazil, for instance, has been trying to reinforce its political relations with Russia, and so has rebuffed calls to impose sanctions on the latter.²⁰⁶ Domestic politics

202. See Navin A. Bapat & T. Clifton Morgan, *Multilateral v. Unilateral Sanctions Reconsidered: A Test Using New Data*, 53 INT'L STUD. Q. 1075, 1077 (2009).

203. *Id.*

204. ECONOMIC SANCTIONS RECONSIDERED 3d ed., *supra* note 111, at 160.

205. See, e.g., Lauren Frayer, *A Year into the Ukraine War, The World's Biggest Democracy Still Won't Condemn Russia*, NPR (Feb. 20, 2023), <https://www.npr.org/2023/02/20/1156478956/russia-india-relations-oil-modi-putin>.

206. See, e.g., Danilo Marcondes & Antonio Ruy de Almeida Silva, *The Role of Brazil in the Russia-Ukraine Conflict: A Potential Peace Enabler?*, 75 J. INT'L AFF'S. 79, 80 (2023).

might also play a role, with sanctions against a given target being more or less popular within different potential sending States.²⁰⁷ This can make it difficult to impose economic sanctions that are sufficiently broad to have their intended effect. For example, the U.S. has refused to sanction Israeli military units even though the Biden administration determined they committed “gross human rights violations.”²⁰⁸ This is likely because support for Israel in the U.S. has both been historically high and politically divisive.²⁰⁹

Even when a broad coalition of sending States has been assembled and the sanctions are sufficiently broad in scope, there may be problems with enforcement. This can happen for a number of reasons. Bapat and Morgan, for instance, theorize that the theory of public goods may incentivize some sending States to “free ride.”²¹⁰ When there is a coalition of sending States, each benefits from the alteration of the target State’s behavior. A sending State may believe this behavioral change can still be achieved even if it cheats (i.e., continues to trade or otherwise conduct business with the target).²¹¹ In this case, the sending State would have an incentive not to enforce its economic sanctions.

In other cases, sending States might have the will to enforce economic sanctions, but they may lack the legal, administrative, or technological capacity.²¹² Enforcing economic sanctions requires States to monitor compliance. This can be difficult in “a world full of tax havens, banks reluctant to disclose information, governmental protection of banks, and liberalization of international financial transactions.”²¹³ It takes sufficient administrative and technological resources, which not all States have. And, of course, when an infraction is caught, not all States have sufficient legal resources to hold the bad actor to account.

In addition, economic sanctions often fail because target States are able to evade them. First and foremost, target States are often able to get around economic sanctions restricting trade by simply finding new business partners. This is a particularly prominent concern

207. ECONOMIC SANCTIONS RECONSIDERED 3d ed., *supra* note 111, at 160.

208. See Anne Flaherty, *US Holds off on Sanctioning Israeli Military Units Accused of Human Rights Violations in West Bank Before Start of War with Hamas*, ABC NEWS (Apr. 26, 2024), <https://abcnews.go.com/Politics/biden-sanction-israeli-military-units-accused-human-rights/story?id=109651562>.

209. See, e.g., Douglas Schoen & Carly Cooperman, *Polling Reveals Americans’ Widespread, Bipartisan Support for Israel*, THE HILL (Jan. 27, 2025), <https://thehill.com/opinion/international/5107276-bipartisan-support-israel-hamas-peace/>.

210. Bapat & Morgan, *supra* note 202, at 1079.

211. *Id.*

212. See Brzoska, *supra* note 119, at 525–26.

213. *Id.* at 525.

when economic sanctions target exports of goods that have widespread demand, such as oil.²¹⁴ A similar problem is that, even if a sending State makes it harder for the target to import a specific good, substitute goods can often be found.²¹⁵ Unless economic sanctions are imposed and enforced by a very broad coalition, the possibility of finding new trading partners remains. And then, of course, there are always black markets, which target States can use to continue trade.²¹⁶ States may also make domestic changes that help them weather the effects of economic sanctions. One of the reasons that economic sanctions tend to work fast or not at all is that, with time, target States are often able to compensate for sanctions by increasing domestic production.²¹⁷ For example, after sanctions were imposed on Russia for invading Ukraine, Russia was able to increase its agricultural production, eliminating its dependence on imports for food supplies.²¹⁸

Other measures States can take to evade financial sanctions include accumulating strategic reserves and taking advantage of safe havens.²¹⁹ The Panama Papers, for example, revealed how secret offshore vehicles were used by businesses, politicians, and private individuals to violate sanctions.²²⁰ States may also take measures to revalue their currencies, such as imposing capital controls.²²¹ Even efforts to cut target States off from SWIFT²²² may be circumvented. Both Russia and China, for instance, have created alternatives to SWIFT.²²³ In addition, target States might embrace cryptocurrencies tied to a blockchain, enabling transactions that “can avoid the monitoring and surveillance systems of virtually all regulators.”²²⁴

214. See ASKARI ET AL., *supra* note 98, at 86.

215. *Id.*

216. Laura Kanji, *Moving Targets: The Evolution and Future of Smart Sanctions*, 37 HARV. INT'L REV. 39, 42 (2016).

217. DEMARAIS, *supra* note 100, at 39.

218. *Id.*

219. Kanji, *supra* note 216, at 42.

220. See Lawrence J. Trautman, *Part 1: Tip of the Iceberg*, 121 PENN ST. L. REV. 807, 811 (2017).

221. See JENTLESON, *supra* note 150, at 39.

222. The Society for Worldwide Interbank Financial Telecommunications (SWIFT) is a global network through which financial institutions send and receive information related to financial transactions.

223. SPFS (System for Transfer of Financial Messages) and CIPS (Cross-Border Interbank Payment System) respectively. See Colton Milam, *At the Cliff's Edge: The Growing Threat of Losing Primary Reserve Status*, 17 OHIO ST. BUS. L. J. 354, 372 (2023).

224. Alma Angotti & Anne Marie Minogue, *Risks and Rewards: Blockchain, Cryptocurrency and Vulnerability to Money Laundering, Terrorist Financing and Tax Evasion*, THOMSON REUTERS PRACTITIONER INSIGHTS COMMENTARIES (2018).

Finally, even if a target State is unable to avoid economic sanctions, there is no guarantee they will have their intended political effect. There are several reasons economic sanctions are less effective against autocracies. First, governments in authoritarian states generally control the media and the flow of information.²²⁵ This makes it much easier for them to manipulate public opinion with propaganda. In fact, one of the oft-cited unintended effects of economic sanctions is that they create a “rally-round-the-flag” effect.²²⁶ Economic sanctions tend to “create a sense of siege that governments then exploit to maintain political control.”²²⁷ The citizens of the target State thus begin to see the sending States as oppressors and their political leaders as national defenders. Moreover, even when the political will exists among the citizenry to change their leadership, they may lack the means to do so. If no democratic processes are in place, the citizens of the target State have no established legal mechanism to translate their dissatisfaction into political change.²²⁸

E. The Humanitarian Costs of Economic Sanctions

While economic sanctions are frequently thought of as a “peaceful” means of coercion, the reality is much more complicated. Economic sanctions may have both political and economic consequences that cause tremendous harm to the target State’s general population. Some scholars have even suggested that economic sanctions may cause more loss of life than outright war.²²⁹ And though most sending States have moved away from the blunt embargoes of the kind used against Iraq in the 1990s, even smart sanctions can take a severe humanitarian toll.

Generally, economic sanctions may harm the target State’s general population in four ways. They may have devastating macroeconomic impacts, reduce the quality and availability of healthcare and health services, create food insecurity, and foment additional political repression.

Economic sanctions, by design, are meant to take an economic toll on the target State. However, the breadth or comprehensiveness of economic sanctions can vary greatly. There is no doubt that comprehensive

225. Arne Tostensen & Beate Bull, *Are Smart Sanctions Feasible?*, 54 *WORLD POL.* 373, 376–77 (2002).

226. RICHARD HAASS, *ECONOMIC SANCTIONS AND AMERICAN DIPLOMACY* 203 (1998).

227. *Id.*

228. See DEMARAIS, *supra* note 100, at 42.

229. See, e.g., John Mueller and Karl Mueller, *Sanctions of Mass Destruction*, 78 *FOREIGN AFF.’S.* 43, 51 (1999) (suggesting “economic sanctions may well have been a necessary cause of the deaths of more people in Iraq than have been slain by all so-called weapons of mass destruction throughout history.”).

economic sanctions, like major trade embargoes, can do tremendous damage to the most vulnerable and disadvantaged members of the target State's population.²³⁰ To mitigate these effects, humanitarian exemptions may be made for goods critical to the health of the general population, such as food products and medical supplies.²³¹ This was the case, for example, in Iraq in the 2000's.²³² Unfortunately, humanitarian exemptions may be inadequate to mitigate the harm done to the innocent. An effect on one sector might, at first blush, seem unproblematic, yet it might have a pernicious effect on another sector that can be difficult to foresee.

Economic sanctions, regardless of how they are imposed, generally have significant macroeconomic effects. Restrictions on imports, for example, can reduce the availability of materials needed for domestic production.²³³ Decreased production can, in turn, lead to a decline in employment as well as a decline in the State's GDP.²³⁴ As per capita income decreases, the poorest tend to suffer disproportionately.²³⁵ Moreover, even targeted import restrictions can have downstream effects on the prices and availability of goods that the general population relies on. In Haiti, for instance, a fuel embargo led to increased transportation prices, which consequently drove up the price of food.²³⁶

Export restrictions can also have disastrous effects. By reducing the market for the target State's exports, the target State's revenue declines, and capital investment is reduced.²³⁷ This, in turn, tends to result in fewer, or lower quality, social services for the general population (e.g., public transportation, healthcare).²³⁸ Export restrictions and asset freezes also tend to depreciate the target State's currency,²³⁹

230. See, e.g., Richard M. Garfield, *Suffer the Innocents*, THE SCIENCES, Jan.-Feb. 1999, at 20 ("Overwhelming evidence suggests that major embargoes increase suffering and death, particularly among the most disadvantaged members of a population").

231. See Robin Geiss, *Humanitarian Safeguards in Economic Sanctions Regimes: A Call for Automatic Suspension Clauses, Periodic Monitoring, and Follow-Up Assessment of Long-Term Effects*, 18 HARV. HUM. RTS. J. 167, 186 (2005); Richard Garfield, *Economic Sanctions, Humanitarianism, and Conflict After the Cold War*, 29 SOC. JUST. 94, 100 (2002) [hereinafter Garfield, *Economic Sanctions*] ("Almost all legislation imposing sanctions in recent decades provides exemptions for food and/or medicines.").

232. Garfield, *Economic Sanctions*, *supra* note 231, at 100.

233. See Richard Garfield, *The Impact of Economic Sanctions on Health and Well-being*, 31 RELIEF & REHAB. NETWORK 1, 12 (Nov. 1999) [hereinafter Garfield, RRN].

234. *Id.*

235. *Id.*

236. Geiss, *supra* note 231, at 185.

237. Garfield, RRN, *supra* note 233, at 12.

238. *Id.*

239. OLEG ITSKHOKI & DMITRY MUKHIN, *Sanctions and the Exchange Rate*, at 1, NAT'L BUREAU ECON. RSCH., WORKING PAPER NO. 30009 (Apr. 2022)..

which may contribute to inflation.²⁴⁰ Indeed, inflation is a common consequence of economic sanctions—as trade is restricted, imported products become scarcer and their prices rise.²⁴¹ In addition, as supply chains are disrupted, the number of intermediaries involved in trade goes up, further increasing prices.²⁴² To make matters worse, fears of inflation reinforce demand for foreign currency, which can exacerbate the devaluation of the target State's domestic currency.²⁴³

Economic sanctions can also have a disastrous effect on healthcare and health services. Richard Garfield observes, for instance, that even when food and medicine were exempted from economic sanctions, “all sanctions led to limitations on the importation of foodstuffs and medicines.”²⁴⁴ This is partially because many businesses are deterred by the strict conditions that sanctions regimes impose on providing exempted goods to the target State.²⁴⁵ And businesses that provide exempted goods not only take on an additional administrative burden, they also take on a certain amount of risk. Firms must take care not to do business with sanctioned entities or with certain ties to sanctioned entities, or they risk incurring punitive measures.²⁴⁶ Even when food and medicine gets through, problems may still arise because economic sanctions may restrict goods necessary to use, store, or transport them. Sanctions against Haiti, for example, exempted vaccines, but restrictions on gasoline and kerosene led to issues refrigerating them.²⁴⁷

Another issue is the decreased availability of food and water. Sanctioned countries tend to see staple goods increase significantly in price.²⁴⁸ Even if this doesn't result in starvation, families that spend more on staples have less money to spend on other sources of nutrition. The result is a rise in malnourishment, which is most pronounced among the elderly, chronically ill, pregnant and lactating women, and children under the age of five.²⁴⁹ Moreover, because a sanctioned State's resources are reduced, critical infrastructure such as “roads, hospitals, and sanitation systems may be neglected and fall into disrepair,” thus aggravating health risks.²⁵⁰ Even something as seemingly innocuous as

240. DEMARAIS, *supra* note 100, at 54.

241. *Id.*

242. *Id.* at 54–55.

243. ITSKHOKI & MUKHIN, *supra* note 239, at 16.

244. Garfield, RRN, *supra* note 233, at 100–01.

245. *See* DEMARAIS, *supra* note 100, at 60.

246. *See id.* at 61.

247. Garfield, *Suffer the Innocents*, *supra* note 230, at 21.

248. Garfield, RRN, *supra* note 233, at 16.

249. *Id.*

250. Susan Hannah Allen & David J. Lektzian, *Economic Sanctions: A Blunt Instrument?*,

an arms embargo can have the effect of diverting resources away from public health if the government consequently decides to spend more trying to illegally purchase arms and materiel.²⁵¹

When the government of the target State is forced to make difficult decisions about where to allocate dwindling resources, public health can suffer in a myriad of other ways. Hospitals and other medical providers rely on more than just medicine to function. They need access to energy, sanitation infrastructure, transportation, and equipment. They need ambulances, MRI machines, centrifuges, and refrigerators. When these critical goods become scarce, the capacity of the public health system is reduced.²⁵² Richard Garfield, for instance, reports women in Cuba “delivering far from hospitals because of lack of ambulance parts or in the middle of Caesarean deliveries when electricity shut down became common.”²⁵³ Moreover, triaging may occur as the public health system’s capacity is reduced. Preventative care and more basic procedures may be deprioritized, with further negative repercussions for public health.²⁵⁴

Another danger of economic sanctions is that they may cause the target State’s government to further restrict citizens’ rights. Recent research by Jerg Gutmann, Matthias Neuenkirch, and Florian Neumeier reveals that economic sanctions imposed by the U.S. led targeted regimes to further repress the political and civil rights of their citizens.²⁵⁵ The exact effects of such repression, of course, vary on a case-by-case basis.

None of this should be read to mean that economic sanctions should never be used. In fact, despite the pessimistic hypotheses of some scholars, there is at least some evidence to support the claim that economic sanctions do appear to cause less humanitarian harm than military conflict.²⁵⁶ Still, there is no doubt that economic sanctions can do tremendous harm to the target State’s general population. Any

50 J. PEACE RSCH. 121, 123 (2013).

251. See Kanji, *supra* note 216, at 42.

252. See Allen & Lektzian, *supra* note 250, at 121.

253. Garfield, RRN, *supra* note 233, at 15.

254. See Allen & Lektzian, *supra* note 250, at 121.

255. Jerg Gutmann et al., *Precision-Guided or Blunt? The Effects of US Economic Sanctions on Human Rights*, 185 PUB. CHOICE 161, 175 (2016). Interestingly, the authors found no evidence that economic sanctions resulted in further repression of economic rights or “basic human rights.” Perhaps even more surprising, they found that economic sanctions actually correlated with an increase in women’s rights in target States. See *id.*

256. See Allen & Lektzian, *supra* note 250, at 132–33 (comparing the humanitarian effects of economic sanctions to military conflict and finding economic sanctions result in fewer deaths and have a smaller effect on health outcomes).

imposition of economic sanctions should be carefully tailored to the specific situation with the goal of minimizing humanitarian harm. Any regime of economic sanctions must also be carefully monitored to assess its ongoing impact on the target State's population. The use of any instrument capable of causing so much harm and suffering should always be attended by the strictest of ethical considerations.

III. CURRENT ECONOMIC SANCTIONS ON MYANMAR

Currently, only six entities have imposed sanctions on Myanmar: the U.S., U.K., Canada, Australia, New Zealand, and the E.U. Understanding the efficacy of these sanctions, however, requires a brief overview of Myanmar's economy. This Part will begin by exploring the ways in which the SAC controls the Burmese economy and uses it to enrich its own members. Then it will discuss sanctions currently in place, taking note of where they are effective and where they are insufficient.

A. Tatmadaw Control of Myanmar's Economy

Over time, the Tatmadaw has gained control over much of Myanmar's economy. Beginning in the early 1950s, the Tatmadaw under General Ne Win began to establish non-profit business enterprises, such as the Defence Services Institute (DSI).²⁵⁷ These entities were initially created to provide an independent source of food and supplies for the Tatmadaw, which feared the central government might not continue to sufficiently fund the military.²⁵⁸ However, these enterprises quickly expanded into business conglomerates with activities that ranged from banking to consumer goods to a bus line.²⁵⁹ DSI, for instance, became the country's single largest commercial enterprise.²⁶⁰ After General Ne Win took power in a 1962 military coup, the newly empowered Revolutionary Council began nationalizing private sector economic activity, including these military conglomerates.²⁶¹ Expansive State economic control was thus established early on. And the State, of course, was controlled by the Tatmadaw.

257. Gerard McCarthy, *Military Capitalism in Myanmar: Examining the Origins, Continuities, and Evolution of "Khaki Capital"*, in *TRENDS IN SOUTHEAST ASIA* 1, 6 (vol. 6, 2019).

258. *Id.*

259. *Id.* at 7.

260. Maung Aung Myoe, *The Defence Expenditures and Commercial Interests of the Tatmadaw*, in *PRAETORIANS, PROFITEERS OR PROFESSIONALS? STUDIES ON THE MILITARIES OF MYANMAR AND THAILAND* 97, 109 (Michael J. Montesano et al. eds., 2020).

261. McCarthy, *supra* note 257, at 10.

In 1988, the Tatmadaw created the State Law and Order Restoration Council (SLORC), and a new era of market reforms began. State enterprises were privatized, and foreign investment was courted.²⁶² The Tatmadaw re-established military enterprises “and quickly entered into joint ventures with foreign firms across a diverse range of extractive, manufacturing, agriculture and hospitality industries.”²⁶³ Overall, the process of privatization was largely controlled by the Tatmadaw, and licenses and contracts in lucrative industries overwhelmingly went to members of the Tatmadaw and their cronies.²⁶⁴

Two entities in particular were established that would quickly come to dominate Myanmar’s economy: the Union of Myanmar Economic Holdings Ltd. (later renamed to Myanma Economic Holdings Ltd., or MEHL) and the Myanmar Economic Corporation (MEC). Both were owned and managed by the Tatmadaw.²⁶⁵ The SLORC also passed the State-Owned Economic Enterprises Law, which granted the state exclusive rights to economic activity through State-Owned Economic Enterprises (SEEs) in twelve sectors: teak; forest plantations; petroleum and natural gas; pearl, jade, and precious stones; fisheries reserved for research by the government; postal and telecommunications services; air and railway transport services; banking and insurance services; exploration, extraction, and export of metals; electricity generating services; and products relating to security and defense.²⁶⁶ As of 2018, SEEs generated roughly 50% of Myanmar’s fiscal revenues.²⁶⁷

Although MEHL was registered as a public company in 2016, it is still tightly controlled by the Tatmadaw.²⁶⁸ Active and retired officers of the Tatmadaw make up its board of directors, and its shareholders are Tatmadaw units and active and retired Tatmadaw personnel.²⁶⁹ MEHL has over fifty subsidiaries across a wide array of industries and leverages its economic dominance to control both members of the Tatmadaw

262. *See id.* at 12–13.

263. *Id.* at 13.

264. Michele Ford et al., *Political Regimes and Economic Policy: Isolation, Consolidation, Reintegration and Rupture*, in MYANMAR POLITICS, ECONOMY AND SOCIETY 109, 111 (Adam Simpson & Nicholas Farrelly eds., 2d ed., 2024).

265. Myoe, *supra* note 260, at 113, 115.

266. State-Owned Economic Enterprises Law, 1989, (Act No. 9/89) (Myan.).

267. RENAISSANCE INST. & NAT'L RES. GOVERNANCE INST., *Executive Summary: State-Owned Economic Enterprise Reform in Myanmar: The Case of Natural Resource Enterprises 2* (JAN. 2018).

268. AMNESTY INT'L, *MILITARY LTD: THE COMPANY FINANCING HUMAN RIGHTS ABUSES IN MYANMAR* 23 (2020).

269. *Id.* at 23, 32.

and foreign investment.²⁷⁰ Because MEHL essentially has monopolies in certain markets, foreign entities looking to invest in these markets have little choice but to go through MEHL.²⁷¹ Foreign corporations generally partner with an MEHL affiliate and engage in profit-sharing agreements that guarantee MEHL a certain percentage of profits generated, even though MEHL does not own shares in the company.²⁷²

Beyond MEHL, the Tatmadaw has other means of enriching itself. The Myanmar Economic Corporation, which is slightly smaller than MEHL, was never made public, and is still strictly under Tatmadaw control.²⁷³ As of 2017, the MEC ran over forty businesses across a wide variety of economic sectors.²⁷⁴ In addition, the Tatmadaw maintains a system of patronage, trading economic privileges for material benefits. In exchange for the rights to “engage in extractive businesses, such as timber production or mineral exploration . . . the military could ask these cronies to provide financial support for its off-budget spending.”²⁷⁵ In the 2000s, the Tatmadaw also confiscated nearly 500,000 acres of land to support its various commercial activities.²⁷⁶ Given the Tatmadaw’s extensive control over Myanmar’s economy, imposing effective economic sanctions is hardly straightforward.

B. Current Economic Sanctions on Myanmar

Despite the gravity of the humanitarian situation in Myanmar, very few states have actually imposed economic sanctions. Those that have include the U.S., the U.K., Canada, Australia, and New Zealand. The E.U. has also imposed economic sanctions on Myanmar. On the other hand, the Security Council and ASEAN have so far refused to impose economic sanctions.

It is virtually inconceivable that the Security Council would use its Article 41 powers to impose multilateral sanctions on Myanmar. Russia and China—both permanent veto-wielding members of the Security Council—have ties to the Tatmadaw and have made it clear that sanctions are out of the question.²⁷⁷ In fact, since lending their sup-

270. *See id.* at 24, 26, 37.

271. *See id.* at 26.

272. *Id.*

273. *See Myoe, supra* note 264, at 116.

274. *Id.*

275. *Id.* at 120.

276. *See id.* at 120–21. The Tatmadaw eventually returned just over 70,000 acres of this confiscated land. *Id.* at 122.

277. *See* Edith M. Lederer, *UN Security Council, Minus China and Russia, Condemns Myanmar Military’s Killing of Civilians*, AP (Aug. 24, 2023), <https://apnews.com/article/un-myanmar-military-killing-rights-suu-kyi-029f8503bf1eb6ec0e97e8521775184a>.

port on a resolution in 2022 calling for an end to the violence, Russia and China have argued that the crisis in Myanmar does not demand greater attention by the Security Council.²⁷⁸ It has been over fifteen months since the Security Council has even been able to agree on a press statement on the issue.²⁷⁹ Similarly, there is no indication that ASEAN would be willing to impose economic sanctions on Myanmar. Singapore, Japan, and Thailand have expressed resistance to imposing economic sanctions.²⁸⁰ Thailand, in particular, continues to maintain ties with the SAC and remains the largest importer of natural gas from Myanmar.²⁸¹

This Section will begin by exploring the asset freezes and sanctions targeting Burmese financial institutions. Then it will look at sanctions targeting individuals and the SAC's business revenues. It will conclude by looking at sanctions targeting arms and other military and dual-use materials.

1. Asset Freezes and Financial Institutions

Although several States have frozen the foreign assets of individual actors and entities connected to the Tatmadaw, the U.S. is the only State to have blocked access to Myanmar government funds held abroad. Shortly after the 2021 coup, the U.S. froze \$1 billion USD of Myanmar government funds held in the U.S. to block the SAC from accessing it.²⁸²

In 2023, the U.S. also sanctioned two Myanmar State-owned banks: Myanma Foreign Trade Bank (MFTB) and Myanma Investment and Commercial Bank (MICB).²⁸³ The State Department made clear that both banks "have been instrumental in facilitating the regime's use of foreign currency to procure arms and jet fuel abroad and to access international markets using offshore accounts."²⁸⁴ However, the U.S. left untouched Myanmar's other two state-owned banks: Myanma

278. Meetings Coverage, U.N. SEC. COUNCIL, 9595th Meeting, *As Crisis in Myanmar Worsens, Security Council Must Take Resolute Action to End Violence by Country's Military, Address Humanitarian Situation, Speakers Urge* (Apr. 4, 2024), <https://press.un.org/en/2024/sc15652.doc.htm>.

279. *Id.*

280. Susannah Patton, *What's Next for Sanctions on Myanmar?*, EAST ASIA FORUM (June 22, 2023), <https://eastasiaforum.org/2023/06/22/whats-next-for-sanctions-on-myanmar/>.

281. *Id.*

282. *Biden Approves Order for Sanctions on Myanmar Generals, Businesses*, REUTERS (FEB. 10, 2021), <https://www.reuters.com/article/idUSKBN2AA20E/>.

283. Press Statement, U.S. DEP'T OF STATE, *Transactions with Sanctioned Burmese Banks Must Be Wound Down by August 5, 2023* (Aug. 4, 2023), <https://www.state.gov/transactions-with-sanctioned-burmese-banks-must-be-wound-down-by-august-5-2023>.

284. *Id.*

Economic Bank (MEB) and Myanmar Agricultural and Development Bank. Together, these four state-owned banks hold around 30% of the assets in Myanmar's banking system.²⁸⁵ The SAC and its members also benefit from four private sector banks. Myawaddy Bank and Innwa Bank are SAC-owned, and the SAC has a stake in Myanmar Citizens Bank and Myanmar Construction, Infrastructure, and Housing Development Bank.²⁸⁶ There are also a number of Tatmadaw crony-linked banks that have so far been spared, including: Kanbawza Bank Ltd.; United Amara Bank; Co-operative Bank Ltd.; Global Treasure Bank, and Naypyitaw Sibin Bank Ltd. The U.S. has, however, sanctioned the crony-linked Asia Green Development Bank.²⁸⁷ In addition, the Central Bank of Myanmar, although nominally independent by law, is under the de facto control of the SAC, which replaced its head with an SAC crony immediately after the coup.²⁸⁸

Canada and Australia have also imposed sanctions against several of the banks the Tatmadaw relies on. Like the U.S., both Canada and Australia imposed sanctions on MFTB and MICB.²⁸⁹ Canada also imposed sanctions on the MEB, Innwa Bank, and Myawaddy Bank Ltd.²⁹⁰ Neither New Zealand nor the E.U. have imposed sanctions on any of Myanmar's financial institutions.

2. Sanctions Targeting Individuals

All entities that have imposed economic sanctions on Myanmar have targeted senior SAC officials and Tatmadaw officers. The U.S. has imposed financial sanctions and travel bans on 91 individuals, the U.K. on 39, Canada on 134, Australia on 21, and the E.U. on 103.²⁹¹ New

285. *Revealed: The International Banks Providing Finance to the Myanmar Military*, JUSTICE FOR MYANMAR (Feb. 15, 2021), <https://www.justiceformyanmar.org/stories/revealed-the-international-banks-providing-finance-to-the-myanmar-military>.

286. *Id.*

287. *Sanctions List Search*, OFAC, <https://sanctionssearch.ofac.treas.gov/>.

288. *See Revealed, supra* note 285; *Myanmar Junta Names New Head of Central Bank*, CENTRAL BANKING (Feb. 5, 2021), <https://www.centralbanking.com/central-banks/governance/people/7743226/myanmar-junta-names-new-head-of-central-bank>.

289. *Special Economic Measures (Burma) Regulations*, JUST. L. WEBSITE (Apr. 16, 2024), <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2007-285/FullText.html>; *Myanmar Sanctions Regime*, AUSTRALIAN GOV. DEP'T FOREIGN AFF'S. (last visited Apr. 24, 2024), <https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/myanmar-sanctions-regime>.

290. *Special Economic Measures (Burma) Regulations, supra* note 289.

291. *See Sanctions List Search, supra* note 287; *Special Economic Measures (Burma) Regulations, supra* note 289; *Myanmar Sanctions Regime, supra* note 289; *Consolidated List of Financial Sanctions Targets in the UK*, OFF. FIN. SANCTIONS IMPLEMENTATION HM TREASURY (Feb. 1, 2024), <https://assets.publishing.service.gov.uk/media/65bb618927fccf000d4bd1b3/Myanmar.pdf>; *Sanctioned Individuals and Entities*, EU SANCTIONS TRACKER (Apr. 2024), <https://data.europa.eu/apps/eusanctionstracker/search/WyJyZWdpbWUvTU1SI10=>.

Zealand, which does not have the equivalent of a Magnitsky law for sanctioning foreign individuals,²⁹² has not imposed financial sanctions on any members of the SAC or Tatmadaw, but it has imposed travel bans on twenty-one individuals.²⁹³ Unfortunately, these sanctions have been largely uncoordinated. And, while each sender has sanctioned the senior-most SAC officials and Tatmadaw officers (such as Generals Min Aung Hlaing and Soe Win), many key individuals have largely slipped through the cracks. Only the U.S., for example, has imposed sanctions on state and regional level chief ministers. The U.S. and the E.U. were also the only two senders to impose sanctions on other high-ranking SAC members, such as permanent secretaries and director generals. As the activist group Justice for Myanmar points out, “not nearly enough has been done to designate individuals and entities that continue to provide the junta with funds, arms, equipment, technology, and jet fuel.”²⁹⁴ Justice for Myanmar also released a list of 170 directors of Tatmadaw-owned businesses, the vast majority of whom have yet to be targeted by sanctions from any sender.²⁹⁵

3. Sanctions Targeting the Tatmadaw’s Business Revenues

The U.S., U.K., Australia, and the E.U. have sanctioned MEHL and MEC. These are the Tatmadaw’s largest business conglomerates and a significant source of revenue for the SAC. In addition, the U.S. has sanctioned 34 other businesses owned by the SAC or its members, while the U.K. has sanctioned 21, Canada 72, Australia 3, and the E.U. 15. These sanctions focus primarily on SEEs, such as Myanma Timber Enterprise, Myanma Gems Enterprise, and Mining Enterprises 1 and 2 (all of which have been sanctioned by the U.S., U.K., Canada, and

292. See Sam Sachdeva, ‘Absurd’ for NZ to Lack Sanctions Teeth, *Magnitsky Proponent Says*, NEWSROOM (Jul. 8, 2021), <https://newsroom.co.nz/2021/07/08/absurd-for-nz-to-lack-sanctions-teeth/>. A Magnitsky law authorizes a State’s government to impose sanctions against foreign individuals. The laws get their name from the Magnitsky Act passed by the U.S. in 2012 and then expanded in 2016. See CONG. RSCH. SERV., HUMAN RIGHTS AND ANTI-CORRUPTION SANCTIONS: THE GLOBAL MAGNITSKY HUMAN RIGHTS ACCOUNTABILITY ACT 1 (Nov. 7, 2024).

293. See *Implementation of Travel Bans on Myanmar Military Leaders*, N.Z. FOREIGN AFF’S. & TRADE (Mar. 23, 2021), <https://www.mfat.govt.nz/en/media-and-resources/implementation-of-a-travel-ban-on-myanmar-military-leaders/>; *Implementation of Travel Bans on Individuals in Myanmar with Responsibility for the 1 February 2021 Coup and Related Human Rights Violations*, N.Z. FOREIGN AFF’S. & TRADE (Feb. 1, 2022), <https://www.mfat.govt.nz/en/media-and-resources/travel-ban-on-myanmar-military-leaders/>.

294. *International Sanctions Since the Myanmar Military’s Illegal Attempted Coup*, JUSTICE FOR MYAN. (Feb. 5, 2024), <https://www.justiceformyanmar.org/stories/what-has-been-done-to-stop-the-myanmar-militarys-atrocity-crimes>.

295. *Myanmar Military-Controlled Businesses and Associates that Require Targeted Sanctions*, JUSTICE FOR MYAN. (June 10, 2021), <https://www.justiceformyanmar.org/stories/myanmar-military-controlled-businesses-associates-that-require-targeted-sanctions>.

E.U.) as well as a few other large SAC-controlled holding companies, such as the Htoo Group of Companies. Here, too, sanctions reflect a general lack of coordination. A report by EarthRights International and Global Witness found that, as of February 2023, out of the 165 distinct targets sanctioned by either the U.S., U.K., or E.U., only 13% were sanctioned by all three.²⁹⁶ A quick look at the pearl, jade, and precious stones sector is revealing. While the U.S., U.K., Canada, and E.U. all sanctioned Myanmar Gems Enterprise, only the U.S., U.K., and Canada sanctioned the Myanmar Pearl Enterprise. And then, only the U.S. and Canada sanctioned the Myanmar Ruby Enterprise.

The SAC also has many other critical streams of revenue that remain untouched. One of the most important of these sources is oil and gas. In FY 2021, for instance, Myanmar was expected to earn roughly \$1.4 billion USD from oil and gas, making up just over 10% of the government's total revenue.²⁹⁷ Most of this money flows through the Myanmar Oil and Gas Enterprise (MOGE), which is controlled by the SAC.²⁹⁸ Only the E.U. has imposed economic sanctions prohibiting all business with MOGE, although the U.S. has at least prohibited the provision of financial services.²⁹⁹ Another large revenue source for the Tatmadaw is Telecom International Myanmar, which is yet to be sanctioned by any State. Telecom International Myanmar owns Mytel, a Tatmadaw-controlled mobile network operator that was forecast to pay out millions of dollars to the Tatmadaw's generals.³⁰⁰

It should also be noted that many SEEs—which altogether provided about 50% of Myanmar's pre-coup fiscal revenues—remain unsanctioned.³⁰¹ Out of thirty-one SEEs that “provide revenue to the military junta, 25 remain unsanctioned by the US, EU, and UK.”³⁰² Together with the SAC's access to family-owned and crony-linked

296. EARTHRIGHTS INT'L & GLOB. WITNESS, *Missed Opportunities: The Need for a Better Approach to Sanctions in Response to Myanmar's Military Coup 2*, 4 (Feb. 2023). For comparison, 3,100 targets were sanctioned as a consequence of Russia's invasion of Ukraine. *Id.* at 2.

297. *How Much Money Does Myanmar's Military Junta Earn from Oil and Gas?*, MYAN. NOW (June 3, 2021), <https://myanmar-now.org/en/news/how-much-money-does-myanmars-military-junta-earn-from-oil-and-gas/>.

298. *Id.*

299. Press Release, *Treasury Prohibits Financial Services with Myanmar Oil and Gas Enterprise and Imposes Additional Sanctions on Burma Military Regime Officials and Supporters*, U.S. DEP'T OF THE TREASURY (Oct. 31, 2023), <https://home.treasury.gov/news/press-releases/jy1856>.

300. *How Hundreds of Millions of Dollars from Mytel Subscribers Will Flow to Military Generals*, JUST. FOR MYAN. (Mar. 4, 2021), <https://www.justiceformyanmar.org/stories/how-hundreds-of-millions-of-dollars-from-mytel-consumers-will-flow-to-military-generals>.

301. EarthRights Int'l & Global Witness, *supra* note 296, at 11.

302. *Id.*

businesses, there are still many opportunities for members of the SAC to enrich themselves at the general population's expense.

4. Sanctions on Arms and Military Equipment

Several States have imposed financial sanctions on the SAC and the Tatmadaw, yet the Tatmadaw continues to obtain arms and other military equipment necessary to combat the PDF and other domestic armed organizations. The U.S., U.K., Canada, and the E.U. have all imposed sanctions on the SAC itself, as well as the Myanmar War Veterans Organisation, the Office of the Quartermaster General, the Directorate of Defence Procurement, and the Myanmar Directorate of Defence Industries. The U.S. has also sanctioned Myanmar's Ministry of Defence, and the U.S. and U.K. have each sanctioned several light infantry divisions of the Tatmadaw.³⁰³ Yet, since the coup in 2021, the Tatmadaw has managed to import over \$1 billion USD worth of military equipment, including arms, dual use goods, raw materials, and manufacturing equipment.³⁰⁴

The largest suppliers of arms to the Tatmadaw are Russia and China,³⁰⁵ which are, of course, extremely unlikely to alter their behavior, never mind impose sanctions on Myanmar. Yet, the Tatmadaw still relies on raw materials and dual use technologies from a comparatively wide array of foreign suppliers to support its own small arms production.³⁰⁶ It is also heavily reliant on imports of jet fuel to support its air campaigns against the PDF and other armed groups.³⁰⁷

Altogether, as of May 2023, the U.S., U.K., Canada, and the E.U. have sanctioned thirty-three key entities involved in arming the Tatmadaw.³⁰⁸ Yet, only 24% of these entities have been targeted by all

303. The U.S. has sanctioned the 33d, 66th, and 77th, while the U.K. has sanctioned the 33d, 77th, 99th, and 101st. *See Sanctions List Search*, OFAC, <https://sanctionssearch.ofac.treas.gov/> (select "BURMA-EO14014" from "Program" list; then click "Search") (last visited May 29, 2025); *Consolidated List of Financial Sanctions Targets in the UK: Myanmar*, OFF. FIN. SANCTIONS IMPLEMENTATION, HM TREASURY (Oct. 29, 2024), <https://assets.publishing.service.gov.uk/media/6720cb2f87df31a87d8c47c5/Myanmar.pdf>.

304. U.N. HUMAN RIGHTS SPECIAL PROCEDURES, *The Billion Dollar Death Trade: The International Arms Networks that Enable Human Rights Violations in Myanmar* 1 (May 17, 2023) [hereinafter *Billion Dollar Death Trade*].

305. *Id.* at 4.

306. EARTHRIGHTS INT'L & GLOBAL WITNESS, *supra* note 296, at 14.

307. Myanmar: New Data Suggests Military Still Importing Fuel for Deadly Air Strikes Despite Sanctions, AMNESTY INT'L (JAN. 31, 2024), <https://www.amnesty.org/en/latest/news/2024/01/myanmar-new-data-suggests-military-still-importing-fuel-for-deadly-air-strikes-despite-sanctions/>.

308. *See Billion Dollar Death Trade*, *supra* note 304, at 34–35.

four senders.³⁰⁹ More importantly, these sanctions leave key members of business networks involved in arms transactions untouched. This allows the Tatmadaw to evade existing sanctions with relative ease. Sky Aviator is a case in point. Sky Aviator, run by Tatmadaw crony Kyaw Min Oo,³¹⁰ has facilitated over \$30 million USD of arms and associated materials since the 2021 coup.³¹¹ Although it has been sanctioned by all four senders, Sky Aviator was able to quickly re-route its business through a different company called Heli Eagle Company Limited, which is owned by Kyaw Min Oo's business partner Wai Sar Tun and his brother Myo Min Oo.³¹² In fact, Sky Aviator was able to reroute its business through Heli Eagle even before U.S. sanctions were imposed.³¹³ And yet, only Canada has imposed sanctions on Heli Eagle and Myo Min Oo, and no sender has imposed sanctions on Wai Sar Tun.

IV. WHERE DO WE GO FROM HERE?

There are many reasons to be skeptical of economic sanctions. They are often ineffective, they have negative economic externalities on sending States and third-parties, and they can do tremendous harm to innocent members of the general population. Yet, in some instances, economic sanctions have proven to be a powerful and effective tool. If there is any single scholarly consensus around the use of economic sanctions, it is that every case is unique and the specific circumstances must be carefully considered. This Part will begin by looking at why economic sanctions might work in Myanmar despite their overall poor rate of success. Then, it will explore how sanctions targeting arms, businesses, and financial institutions can be made more powerful. It will conclude by proposing the international community do more to support the NUG.

A. What Makes the Situation in Myanmar Unique

The conflict in Myanmar is unique in several respects. Most notable is the fact that there is a unified political opposition with democratic legitimacy: the NUG. This is not a case where rival factions are vying for power and where the will of the people is unclear. The existence of a powerful government in exile with the capacity to govern, democratic legitimacy, concern for human rights, and international recognition sets

309. *Id.* at 34.

310. *U.S. Slaps Sanctions on Burmese Arms Dealer; Company*, REUTERS (Nov. 8, 2022), <https://www.reuters.com/world/asia-pacific/us-slaps-sanctions-burmese-arms-dealer-company-2022-11-08/>.

311. *Billion Dollar Death Trade*, *supra* note 304, at 36.

312. *Id.* at 37.

313. *Id.*

the situation in Myanmar apart from many other conflicts where economic sanctions have been used. Moreover, the NUG has a real chance of succeeding if it is given sufficient international support, and targeted economic sanctions will be critical. Finally, the Burmese people continue to call on the world to impose additional targeted economic sanctions, and it is unlikely more sanctions will result in significant additional harm to the general population.

The NUG should be regarded as the legitimate government of Myanmar. The Tatmadaw launched its coup in the aftermath of a democratic election that independent outside observer groups have determined was “representative of the will of the people of Myanmar.”³¹⁴ After the coup, the NUG was created by the CRPH—a group of parliamentarians, most of whom were members of the NLD, which had just won the elections in a landslide.³¹⁵ There is no doubt the members of the CRPH were the legitimately elected leaders of Myanmar, and creating the NUG was a legitimate exercise of their authority. The NUG, moreover, is comprised primarily of parliamentarians who had recently been democratically elected in addition to leaders of the anti-coup protests and representatives of ethnic minority organizations.³¹⁶ It not only has democratic legitimacy, it also represents a broad swathe of Myanmar’s diverse population. The European Parliament has even formally recognized the CRPH and the NUG “as the only legitimate representatives of the democratic wishes of the people of Myanmar.”³¹⁷

Just as importantly, the NUG continues to enjoy broad support from the Burmese people. A survey of 4,612 Burmese adults across a diverse array of ethnic groups found nearly 92% “felt ‘somewhat’ or ‘very’ favorable toward the NUG.”³¹⁸ And this support was surprisingly consistent across ethnic minority groups. In fact, “78% of respondents from ethnic minorities favored the NUG as much . . . or more . . . than their own minorities’ armed groups.”³¹⁹ The country has also shown signs of unprecedented unity in combatting the SAC. The

314. *Myanmar’s Election Reflected People’s Will, Monitoring Group Says*, REUTERS (May 17, 2021), <https://www.reuters.com/world/asia-pacific/myanmars-election-reflected-peoples-will-monitoring-group-says-2021-05-17/> (citing a report from the Asian Network for Free Elections).

315. See Sebastian Strangio, *Myanmar Coup Opponents Announce National Unity Government*, DIPLOMAT (Apr. 19, 2021), <https://thediplomat.com/2021/04/myanmar-coup-opponents-announce-national-unity-government/>.

316. *Id.*

317. EUR. PARL. RES, *Myanmar, One Year After the Coup*, at 2 (RSP 2022/2581) (2022).

318. Jangai Jap & Amy H. Liu, *A Survey Finds Ethnic Groups Backing the Anti-Junta Coalition—A Promising Basis for Stability*, U.S. INST. PEACE (Feb. 29, 2024), <https://www.usip.org/publications/2024/02/myanmar-new-data-show-wide-support-unity-government>.

319. *Id.*

NUG recently put forth a joint statement with the Chin National Front, the Karenni National Progressive Party, and the Karen National Union that proposes terms for a peaceful transition of power to a civilian government.³²⁰ This is significant considering the historic hostility between these ethnic armed organizations and Myanmar's central government. In fact, the Chin National Front and Karen National Union only signed a formal ceasefire agreement with the central government as recently as 2015.³²¹ Similarly, the Three Brotherhood Alliance—comprised of the Arakan Army, Myanmar National Democratic Alliance Army, and the Ta'ang National Liberation Army—has sometimes allied itself with the NUG-created PDF.³²²

In addition to democratic legitimacy, the NUG represents a potential path towards accountability for atrocity crimes, including the genocide against the Rohingya. Shortly after the coup, the NUG filed an Article 12 declaration accepting the International Criminal Court's jurisdiction over all "international crimes" committed in Myanmar since 2002.³²³ This would include the 2017 genocide as well as antecedent crimes against humanity perpetrated against the Rohingya. In an equally historic turn, the NUG has also promised repatriation and citizenship for the Rohingya.³²⁴ Even if this is little more than a calculated political ploy to garner international support, it is clear that the NUG is still the world's best hope for accountability and political inclusion of the Rohingya. It is extremely unlikely that the leaders of the SAC—who were the primary perpetrators of the genocide—would ever offer the Rohingya citizenship afterwards, or subject themselves to criminal proceedings for their crimes during the genocide.

The fact that the NUG has a strong claim to democratic legitimacy, broad support, and represents the only realistic pathway to justice and accountability in Myanmar means supporting it should be an easy

320. *Myanmar's Resistance Forces Suggest Terms for the Military's Eventual Handover of Power*, AP (Jan. 31, 2024), <https://apnews.com/article/myanmar-military-ethnic-national-unity-government-605f7d25a38000528bee9851a682d0ac>.

321. See Antoni Slodkowski, *Myanmar Signs Ceasefire with Eight Armed Groups*, REUTERS (Oct. 15, 2015), <https://www.reuters.com/article/idUSKCN0S82MR/>.

322. *What is Myanmar's Three Brotherhood Alliance that's Resisting the Military?*, AL JAZEERA (Jan. 16, 2024), <https://www.aljazeera.com/news/2024/1/16/what-is-myanmars-three-brotherhood-alliance-thats-resisting-the-military>.

323. Adam Simpson, *Myanmar's Exile Government Signs up to ICC Prosecutions*, EAST ASIA FORUM (Sept. 17, 2021), <https://eastasiaforum.org/2021/09/17/myanmars-exile-government-signs-up-to-icc-prosecutions/>.

324. Zung Ring, *Myanmar NUG's Rohingya Policy: A Political Gamble that Has Yet to Pay Off*, IRRAWADDY (Sept. 6, 2023), <https://www.irrawaddy.com/opinion/guest-column/myanmar-nugs-rohingya-policy-a-political-gamble-that-has-yet-to-pay-off.html>.

choice. The NUG has continually called for stricter economic sanctions targeting the SAC's arms and business networks.³²⁵ This is not a matter of more powerful nations imposing sanctions against an unwilling or reluctant populace. Stricter sanctions have been repeatedly requested by the legitimate democratic representatives of the Burmese people. This should inform the legal and ethical calculus of any States that genuinely want to see an end to the atrocities in Myanmar.

Another salient aspect of the situation in Myanmar is that the SAC's control over the country is not just unpopular—it is tenuous. Organized armed resistance has been surprisingly effective across large swathes of the country. In 2022, the Special Advisory Council for Myanmar estimated the SAC had “effective control” over only 17% of the country.³²⁶ More recently, the PDF and EAOs have enjoyed startling success in liberating territory from Tatmadaw control. The Three Brotherhood Alliance and the PDF launched Operation 1027 in October 2023, recapturing significant territory in Shan State.³²⁷ Then, in March 2024, the Kachin Independence Army launched Operation 0307, capturing over sixty military positions in Kachin State.³²⁸ In the meantime, the Tatmadaw is suffering a crisis of morale, with entire battalions surrendering and over 4,000 members defecting between the launch of Operation 1027 and the end of January 2024.³²⁹ By starving the SAC of arms and financial resources, sending States can help further tip the scales in the NUG's favor.

Furthermore, as long as the SAC remains in power, the humanitarian situation in Myanmar is likely to continue to deteriorate. And it is not just a question of physical violence. Equally significant is the SAC's economic mismanagement. Myanmar's economy contracted

325. See, e.g., *NUG Welcomes the EU's 7th Round of Sanctions Against the Genocidal Military Junta in Myanmar and Calls for Greater and Concrete International Actions*, NUG (Jul. 21, 2023), <https://moic.nugmyanmar.org/nug-welcomes-the-eus-7th-round-of-sanctions/> (calling for additional sanctions on arms and SAC-owned businesses).

326. SPECIAL ADVISORY COUNCIL FOR MYANMAR, *Briefing Paper: Effective Control in Myanmar* 13 (Sept. 5, 2022), <https://specialadvisorycouncil.org/wp-content/uploads/2022/09/SAC-M-Briefing-Paper-Effective-Control-in-Myanmar-ENGLISH-2.pdf>.

327. Yun Sun, *Operation 1027: Changing the Tides of the Myanmar Civil War?*, BROOKINGS (Jan. 16, 2024), <https://www.brookings.edu/articles/operation-1027-changing-the-tides-of-the-myanmar-civil-war/>.

328. Jason Tower, *Myanmar's Collapsing Military Creates a Crisis on China's Border*, U.S. INST. PEACE (Apr. 11, 2024), <https://www.usip.org/publications/2024/04/myanmars-collapsing-military-creates-crisis-chinas-border>.

329. Rebecca Ratcliffe & Aung Naing Soe, *'Why Should I Kill Our Own?': Thousands of Soldiers Surrender as Myanmar Junta Shaken by Rebel Advances*, GUARDIAN (Jan. 29, 2024), <https://www.theguardian.com/global-development/2024/jan/29/myanmar-military-junta-totters-as-battalions-surrender>.

18% following the 2021 coup, with “no noteworthy economic rebound” since.³³⁰ After the coup, the Myanmar kyat (Myanmar’s currency) plunged to roughly half its previous value,³³¹ and overall employment shrunk by 8.9%.³³² The SAC only exacerbated the situation by trying to de-dollarize the economy, further destabilizing currency markets.³³³ SAC mismanagement also drove up rice prices, which more than doubled in parts of the country.³³⁴ As a result of this economic mismanagement, half the country’s population now lives below the national poverty line.³³⁵

Economic sanctions can have unintended, and often surprising, effects on a target State’s economy. Yet, Myanmar’s economy is already in dire straits and is designed to primarily enrich members of the SAC. With thousands of people killed, millions displaced, and half the country living in extreme poverty, action is necessary. Myanmar’s best hope is for a speedy return to civilian government. This can be accomplished, in part, through economic sanctions that target the SAC’s businesses and primarily harm members of the SAC itself. The SAC is a fractious junta that has already seen a distressing number of shakeups amongst its top officials,³³⁶ and it will likely fracture even further under additional pressure. Because of the unique circumstances in Myanmar, more effective economic sanctions have the potential to tip the scales in the NUG’s favor and persuade the SAC that it has little choice but to cede power to a civilian government.

B. Target the Tatmadaw’s Access to Arms, Military Equipment, and Jet Fuel

The Tatmadaw relies on foreign suppliers for a number of critical materials. These, of course, include arms, but they also include dual-use military supplies, and the manufacturing equipment and raw materials necessary to produce arms and munitions. Cutting off the Tatmadaw’s

330. U.N. DEV. PROGRAMME, *Poverty and the Household Economy of Myanmar: A Disappearing Middle Class* 10 (Apr. 2024).

331. Khine Win, *Searching for Keys as the Kyat Goes Out of Kilter*, FULCRUM (Sept. 22, 2022), <https://fulcrum.sg/searching-for-keys-as-the-kyat-goes-out-of-kilter/>.

332. INT’L LABOUR ORG., *Employment in Myanmar in the First Half of 2022: A Rapid Assessment* 3 (Aug. 2022).

333. Win, *supra* note 331.

334. *Burma Coup Watch for the Month of February 2023: Junta’s Violence and Incompetence Exacerbates Economic Woes*, ALTSEAN–BURMA 15 (Mar. 8, 2023).

335. U.N. DEV. PROGRAMME, *supra* note 330, at 11.

336. See, e.g., Zachary Abuza, *The NUG’s Economic War on Myanmar’s Military*, STIMSON (Sept. 27, 2022), <https://www.stimson.org/2022/the-nugs-economic-war-on-myanmars-military/> (describing a number of high-level defections and changes of leadership in the SAC).

access to these materials would not only spare lives, it would help shift the playing field in favor of Myanmar's resistance forces. To accomplish this, three strategies should be employed for maximum effect. First, sending states should improve their primary sanctions regimes. This should involve increasing coordination, responsiveness, and enforcement. Second, sending states should engage in diplomatic efforts to persuade ASEAN members and India to take measures to stop arms from reaching the SAC. Finally, sending states should consider imposing secondary sanctions on entities that continue to facilitate the flow of arms to the SAC.

One of the largest defects in current sanctions regimes against the SAC is that they are full of holes. To begin with, sending States must make greater efforts to target *all*—not just some—of the entities funneling arms to the Tatmadaw. The U.S., for example, has imposed sanctions on several entities that supply arms and other materials to the Tatmadaw, such as Sky Royal Hero Ltd. and Dynasty International Ltd., both of which help provide spare parts for military helicopters.³³⁷ Yet, the U.S. has not imposed sanctions on other companies that also provide spare parts for military helicopters, such as Synpex Shwe Network.³³⁸ The first step in cutting off the Tatmadaw's access to arms is plugging these gaps. Both the Special Rapporteur on the situation of human rights in Myanmar and the Special Advisory Council for Myanmar have issued reports that, together, list thirty-two entities that facilitate the sale of arms and related materials to the Tatmadaw.³³⁹ Neither the U.S. nor any other sender has targeted even a majority of these entities.

Sending States can also help close the gaps through closer coordination to make sure they are sanctioning the same entities. For example, Miya Win International Ltd.—which supplies parts, training, and sales of the Schiebel S100 reconnaissance and light attack drone³⁴⁰—has been sanctioned by the U.K. and Canada, but not by the U.S. or the E.U. Similarly, KT Services & Logistics Co. Ltd. has been sanctioned by only the U.S., and Mottama Holdings has been sanctioned only by Canada. When sanctions are imposed simultaneously by all senders, rather than just one or two, they are much more effective. Furthermore, even when an entity is sanctioned, it might have unsanctioned affiliate companies that continue to facilitate arms purchases for the Tatmadaw.

337. See *Billion Dollar Death Trade*, *supra* note 304, at 14.

338. See *id.*

339. See *id.*; see also SPECIAL ADVISORY COUNCIL FOR MYANMAR, *Fatal Business: Supplying the Myanmar Military's Weapon Production* (Jan. 16, 2023) [hereinafter FATAL BUSINESS].

340. See *Billion Dollar Death Trade*, *supra* note 304, at 14.

This is the case with the network surrounding the Myanmar Chemical & Machinery Company, for instance. While the Myanmar Chemical & Machinery Company is sanctioned by the U.S., U.K., and Canada, its owner (arms broker Aung Hlaing Oo) runs M C M Pacific Pte. Ltd. and United Strategies Company Ltd., which continue to receive supplies for the Tatmadaw.³⁴¹

Economic sanctions should also be made more responsive to the evasion tactics of the Tatmadaw and its cronies. The Tatmadaw has evaded sanctions by using third-party payment providers, front companies, and phoenix companies (i.e., companies that continue to carry out the same business as a company that has just been sanctioned).³⁴² The International Gateways Group (IGG) network, for example, encompasses at least forty-two entities, yet, only IGG itself and its owner Naing Htut Aung have been sanctioned.³⁴³ IGG was able to use all the aforementioned strategies to continue procuring arms for the military. After the coup, IGG created two phoenix companies in Myanmar and shifted much of its trade to Aung Myo Win—one of Naing Htut Aung's business partners.³⁴⁴ IGG also uses smaller companies, such as Myat Shwe Taw Win Company, as front companies for the Directorate of Procurement.³⁴⁵

Sending States must pay closer attention to the complex networks utilized by arms brokers if they want sanctions to be effective. In addition to sanctioning all of the affiliate companies in these networks, sending States must monitor the situation carefully to detect new front companies and phoenix companies as they crop up. This will certainly require more time and administrative resources on the part of sending States, but the alternative is to allow targeted entities to skirt sanctions by simply shifting their arms deals to unsanctioned entities. International collaboration, particularly with the NUG, would ease the burden on States by making monitoring much more effective and efficient. Such collaboration will be discussed further in Section IV.C.

Sending States should also engage in diplomatic efforts to persuade other States to crack down on the arms trade with the Tatmadaw. The majority of arms and related material that goes to the Tatmadaw goes through only five countries. Russia and China are the largest

341. *Id.* at 17.

342. *Id.* at 35.

343. *Id.* at 39.

344. *Id.*

345. *Id.*

suppliers of arms to the Tatmadaw, and there is little chance either State would be swayed by diplomacy.

However, India, Thailand, and especially Singapore have also been also critical arms suppliers to the Tatmadaw. Between the 2021 coup and December 2022, \$254 million USD worth of arms and related materials were funneled to the Tatmadaw through entities based in Singapore.³⁴⁶ After Russia and China, Singapore has been the single largest provider of arms to the Tatmadaw. Nevertheless, Singapore announced its intention to “prohibit the transfer of arms to Myanmar . . . [and] not to authorise the transfer of dual-use items which have been assessed to have potential military application to Myanmar”³⁴⁷ Persuading Singapore to monitor and enforce a prohibition of arms transfers to Myanmar would be devastating to the Tatmadaw.

Of course, if Singapore is no longer an option for arms transfers, much of this traffic is likely to be rerouted through Thailand. In many ways, Thailand’s interests are closely linked with Myanmar’s. Thailand is the largest importer of petroleum gas from Myanmar,³⁴⁸ and General Min Aung Hlaing is even the “adopted son” of the former Thai army chief.³⁴⁹ Still, the fighting in Myanmar has occasionally closed key border crossings between Myanmar and Thailand, and instability is a very undesirable trait in a major trading partner. Tens of thousands of Burmese refugees have also flooded into Thailand since the coup.³⁵⁰ There are also encouraging signs that Thailand’s position on Myanmar might be slowly evolving. Some experts have argued Thailand is trying to adopt a more humanitarian approach to Myanmar,³⁵¹ and a subsidiary of PTT—a state-backed Thai energy company—postponed a natural gas development project in Myanmar, citing the “local situation.”³⁵² It is

346. *Id.* at 21.

347. Ministry of Foreign Affairs Singapore, *Transcript of Minister for Foreign Affairs Dr Vivian Balakrishnan’s Oral Reply to Parliamentary and Supplementary Question on Allegations Concerning Singapore in the Report of the Special Advisory Council for Myanmar* (Feb. 14, 2023), <https://www.mfa.gov.sg/Newsroom/Press-Statements-Transcripts-and-Photos/2023/02/20230214-PQ>.

348. *Petroleum Gas in Burma*, OEC, <https://oec.world/en/profile/bilateral-product/petroleum-gas/reporter/mmr> (last visited Apr. 24, 2024).

349. *Former Thai Army Chief is ‘Godfather’ to Burma’s Top General*, IRRAWADDY (Jul. 16, 2014), <https://www.irrawaddy.com/news/burma/former-thai-army-chief-godfather-burmas-top-general.html>.

350. *Thailand: Recent Refugees Pushed Back to Myanmar*, HUM. RTS. WATCH (Nov. 29, 2003), <https://www.hrw.org/news/2023/11/29/thailand-recent-refugees-pushed-back-myanmar>.

351. See Tommy Walker, *Is Thailand Changing its Role on Myanmar?*, VOICE OF AMERICA (Dec. 13, 2023), <https://www.voanews.com/a/is-thailand-changing-its-role-on-myanmar-/7396141.html>.

352. *Myanmar’s Natural Gas Income in Jeopardy as Foreign Firms Exit*, NIKKEI ASIA (Feb. 28, 2023), <https://asia.nikkei.com/Spotlight/Myanmar-Crisis/>

possible that diplomatic pressure could persuade Thailand that cutting off the supply of arms to the Tatmadaw is in its best interests.

Diplomatic pressure should also be brought to bear on India and Vietnam. After Thailand, India is the next largest supplier of arms to Myanmar.³⁵³ Similarly, Vietnam's Cai Mep port is a crucial node in the supply chain of jet fuel to the Tatmadaw.³⁵⁴ Sending States should exert pressure on India and Vietnam to crack down on these transfers of arms and fuel.

Moreover, increasing clarity and enforcement of sanctions must be made a larger priority for sending States. The networks of entities that funnel arms to the Tatmadaw can be complex and opaque. Sending States should make these networks as clear as possible instead of relying on financial institutions and other corporations to identify the ownership and links of each entity they might do business with. Enforcement should also be prioritized. In 2023, for instance, OFAC undertook a mere seventeen enforcement actions.³⁵⁵ Although increased enforcement would require additional administrative and financial resources, it is necessary to ensure that economic sanctions can be an effective tool. Without the specter of rapid enforcement, economic sanctions lose much of their deterrent effect.

In addition to primary sanctions, sending States should consider imposing secondary sanctions on entities that continue to provide arms to the Tatmadaw. Although secondary sanctions can be contentious, they are certainly not new. The U.S. has imposed secondary sanctions on entities engaging in certain financial transactions with specified entities in Iran and Russia, for example. The situation in Myanmar is similarly grave. Secondary sanctions should target financial institutions involved in arms transactions with the Tatmadaw and its proxies. They should also target front companies and other entities outside of Myanmar that are used to facilitate the sale of arms to the Tatmadaw. The IGG network, for example, includes nine companies in Singapore and four in Thailand that deliver arms and related materials to the

Myanmar-s-natural-gas-income-in-jeopardy-as-foreign-firms-exit.

353. *Billion Dollar Death Trade*, *supra* note 304, at 11.

354. *Myanmar: New Data Suggests Military Still Importing Fuel for Deadly Air Strikes Despite Sanctions*, AMNESTY INT'L (Jan. 31, 2024), <https://www.amnesty.org/en/latest/news/2024/01/myanmar-new-data-suggests-military-still-importing-fuel-for-deadly-air-strikes-despite-sanctions>.

355. *2023 Enforcement Information*, OFF. FOREIGN ASSETS CONTROL, U.S. DEP'T OF TREASURY, <https://ofac.treasury.gov/civil-penalties-and-enforcement-information/2023-enforcement-information> (last visited Apr. 25, 2024).

Tatmadaw.³⁵⁶ Secondary sanctions against these entities would help significantly cut down the Tatmadaw's arms supply.

C. Target the SAC's Entire Business Network

As explored in Section III.A, the SAC has control over broad swathes of Myanmar's economy through SEEs, private business conglomerates, and complex networks of family and crony-owned companies. For economic sanctions to be truly effective, they must target not only the SEEs and large conglomerates but every entity in the SAC's network. Otherwise, SAC members will continue to evade sanctions by shifting trade from sanctioned entities to unsanctioned entities.

The most glaring hole in current sanctions regimes is MOGE. Bringing in over \$1 billion USD annually, MOGE is the SAC's largest source of foreign revenue.³⁵⁷ Only the E.U. and the U.S. have sanctioned MOGE, and U.S. sanctions need to be made much tighter. Rather than adding MOGE to the Specially Designated Nationals (SDN) list and cutting it off completely from the U.S. financial system, the U.S. only prohibited the provision of financial services to MOGE.³⁵⁸ Moreover, caving to Thai pressure, the sanctions were designed so that Thailand can continue to purchase gas from MOGE by making payments in Thai baht rather than U.S. dollars and routing its transactions through unsanctioned banks.³⁵⁹

To increase the effectiveness of its sanctions, the U.S. should add MOGE to the SDN list. It should also consider imposing secondary sanctions on third-party entities that do business with MOGE. In addition, other sending States should join the U.S. and E.U. and impose sanctions on MOGE. Economic sanctions can only be so effective when they leave the target's largest source of foreign revenue untouched.

To make economic sanctions more effective, sending States should also try to close the many gaps in their sanctions regimes. While some senders have targeted SEEs in extractive industries, such as gems and timber, there are many unsanctioned entities that continue to enrich members of the SEC.³⁶⁰ Affiliate companies of sanctioned

356. *Billion Dollar Death Trade*, *supra* note 304, at 39.

357. Shayna Bauchner, *US Sanctions Myanmar Junta's Gas Revenue*, HUM. RTS. WATCH (Nov. 1, 2023), <https://www.hrw.org/news/2023/11/01/us-sanctions-myanmar-juntas-gas-revenue>.

358. Press Statement, *Sanctions Against the Myanmar Oil and Gas Enterprise and Concerted Pressure with Partners* (Oct. 31, 2023), <https://2021-2025.state.gov/sanctions-against-the-myanmar-oil-and-gas-enterprise-and-concerted-pressure-with-partners/>.

359. Mike Haack, *New US Sanctions on MOGE: Hitting the Generals Where it Hurts?*, FRONTIER MYAN. (Dec. 21, 2023), <https://www.frontiermyanmar.net/en/new-us-sanctions-on-moge-hitting-the-generals-where-it-hurts/>.

360. *See* discussion *infra* Section III.B.iii, at 49.

entities like MEHL and MEC should be targeted. State-owned and crown-owned banks should also be sanctioned, especially Myawaddy Bank and Innwa Bank, and the Central Bank of Myanmar. Moreover, sanctions that target other SAC-owned or controlled businesses must also be made more responsive. According to the NUG Ministry of Planning, Finance and Investment (MOPFI), around 17,000 new companies were registered in Myanmar since the coup.³⁶¹ Given the extent to which Myanmar's economy has shrunk, many of these entities have likely been set up to evade sanctions.³⁶² For example, Myawaddy Trading Limited, a subsidiary of MEHL, set up a new firm called Bhone Min Myat to continue doing business abroad.³⁶³ Keeping up with the creation of new companies would certainly pose a challenge to sending States. After all, creating phoenix companies in Myanmar is relatively easy and costs only about \$70 USD.³⁶⁴ More coordination between sending States, as well as closer monitoring, is needed to bridge these gaps.

The creation of an international commission could make the coordination, monitoring, and enforcement of economic sanctions against the SAC much more effective. The United Nations Security Council, for instance, often creates committees to monitor the implementation of Security Council sanctions.³⁶⁵ Although Security Council action with respect to Myanmar is highly unlikely, the G7 also has the power to create an international commission to oversee economic sanctions. In fact, in 2023, the G7 did just that by establishing its Enforcement Coordination Mechanism to “bolster compliance and enforcement” of economic sanctions against Russia.³⁶⁶ A similar mechanism should be created to coordinate and enforce economic sanctions against the SAC in Myanmar.

Any international commission to oversee economic sanctions against the SAC should coordinate closely with MOPFI, which has the means, resources, and motivation to more closely monitor the SAC's business networks. MOPFI would be instrumental in mapping out

361. Zachary Abuza, *The National Unity Government's Revenue Denial Strategy*, STIMSON (Sept. 20, 2023), <https://www.stimson.org/2023/the-national-unity-governments-revenue-denial-strategy/> (citing personal correspondence with MOPFI).

362. *See id.*

363. Htoo Aung, *Myanmar's Junta-Owned Companies Maintain International Economic Ties Despite Sanctions*, MYAN. NOW (Feb. 24, 2023), <https://myanmar-now.org/en/news/myanmars-junta-owned-companies-maintain-international-economic-ties-despite-sanctions/>.

364. *Id.*

365. *Sanctions and Other Committees*, U.N. SEC. COUNCIL, <https://www.un.org/securitycouncil/content/repertoire/sanctions-and-other-committees> (last visited Apr. 24, 2024).

366. *G7 Leaders' Statement: 24 February 2023*, GOV.UK (Mar. 2, 2023), <https://www.gov.uk/government/news/g7-leaders-statement-24-february-2023>.

which businesses and cronies continue to funnel arms and money to the SAC, and it is better positioned to keep track of phoenix companies as they arise. The commission could then design economic sanctions that target all relevant entities and that respond or adjust more quickly to the SAC's efforts at evasion.

The commission should also coordinate closely with the European Anti-Fraud Office (OLAF) and domestic agencies like the U.S.'s OFAC on monitoring and enforcement. Once again, the G7 Enforcement Coordination Mechanism could serve as a model. The Mechanism coordinates with all G7 sending members and works with agencies, including OLAF. In fact, between the start of operations in summer 2023 and April 2024, OLAF alone intercepted over 230,000 dual use goods headed to Russia worth more than 2.3 million euros.³⁶⁷ There is no reason a commission to oversee economic sanctions on the SAC could not be similarly effective. Just as with the Enforcement Coordination Mechanism, a commission to oversee SAC sanctions could significantly relieve the burden on resource-strapped domestic agencies by sharing information and coordinating monitoring and enforcement actions. An independent international commission would also provide some small means of accountability for sending States. Sending States would incur an obligation to the commission and their partners to adequately implement, monitor, and enforce sanctions. And, even if this obligation is not legally binding, it would at least be persuasive. At minimum, States that fail to live up to their commitments could be shamed or pressured to do more.

D. Support the NUG

The NUG is not only the legitimate government of Myanmar, but it is also the country's best chance of dislodging the SAC. International cooperation with and support for the SAC is crucial to ending the violence in Myanmar and providing pathways to accountability. The international community should provide diplomatic, technological, and financial assistance to the NUG wherever possible.

At the most basic level, the NUG should be treated by all States as the legitimate government of Myanmar, and no State should recognize the SAC. No State or entity should enter into contracts with the SAC, and the international community should support the NUG's announcement that it will not accept or honor any investment agreements made

³⁶⁷ Press Release, *OLAF Hosts G7 Sub-Working Group on Export Control Enforcement*, OLAF, (Apr. 17, 2024), https://anti-fraud.ec.europa.eu/media-corner/news/olaf-hosts-g7-sub-working-group-export-control-enforcement-2024-04-17_en.

with the SAC or any SAC-controlled entity.³⁶⁸ The NUG should also be given access to Myanmar's foreign reserves. According to leaked documents, in March 2023, the SAC-controlled Myanmar Central Bank had \$6.8 billion USD in foreign reserves.³⁶⁹ The vast majority (67%) is held in Singaporean banks, while \$1.3 billion USD (20%) is held in the U.S.³⁷⁰ In July of 2023, the NUG announced the soft launch of an online interim central bank called the Spring Development Bank (SDB).³⁷¹ The NUG has sought to use its U.S. reserves as collateral; however, the U.S. has so far refused.³⁷² The U.S. should recognize the NUG's right to these assets, and other countries should follow suit.

The international community should also consider providing more direct forms of assistance to the NUG. Fundraising, in particular, remains a challenge for the NUG.³⁷³ Although the NUG has engaged in a creative array of fundraising initiatives, they are still under-resourced. States should consider providing financial assistance directly to the NUG. Not only would this help prop up the legitimate government of Myanmar but it would also hasten the end of a crisis with devastating humanitarian consequences.

CONCLUSION

Although it has been largely overlooked in the West, the conflict in Myanmar is one of the most severe humanitarian crises of our time. With thousands killed, millions displaced, and millions more in desperate need of humanitarian assistance, it is imperative for the international community to act. Although economic sanctions have, at best, a mixed record of success, it is clear that they can be effective under the right circumstances. The current conflict in Myanmar is just such a case.

If done right, economic sanctions can help the NUG force a transition back to a civilian, democratic government in Myanmar. Sending States should focus on sanctioning the SAC's most lucrative business

368. REPUBLIC UNION MYAN. NAT'L UNITY GOV'T, *Ministry of Planning, Finance & Investment Three-Pillar Framework Guiding Responsible Investment and Continued Operations* 3 (Jul. 21, 2021).

369. *Myanmar Junta's Central Bank Had \$6.8 Bn in Reserves at 14 Int'l Banks in March*, IRRAWADDY (Aug. 21, 2023), <https://www.irrawaddy.com/news/myanmars-crisis-the-world/myanmar-juntas-central-bank-had-6-8-bn-in-reserves-at-14-intl-banks-in-march.html>.

370. *Id.*

371. Aung Naing, *NUG Launches Online Bank to Support Fight Against Myanmar Junta*, MYAN. NOW (Jul. 24, 2023), <https://myanmar-now.org/en/news/nug-launches-online-bank-to-support-fight-against-myanmar-junta/>.

372. *Id.*

373. See Zachary Abuza, *Sustaining Funding for Myanmar's Spring Revolution*, STIMSON (May 17, 2023), <https://www.stimson.org/2023/sustaining-funding-for-myanmars-spring-revolution/>.

entities as well as its access to arms, military equipment, and jet fuel. This will require expanding sanctions to target all relevant entities as well as diligent monitoring to prevent sanctions evasion through front and phoenix companies. In order to be effective, sending States must increase their investments in monitoring and enforcement, however the burden can be lessened significantly through international collaboration—especially with the NUG and MOPFI. The G7 should also create a body modeled after the Joint Enforcement Mechanism which monitors Russian sanctions. The situation in Myanmar is dire, but by taking steps to improve existing sanctions regimes and supporting the NUG, the international community can make a material difference.

Glossary of Terms and Initialisms

Amyotha Hluttaw: The upper house of Myanmar's parliament.

ARSA: Arakan Rohingya Salvation Army

CDM: Civil Disobedience Movement

CRPH: Committee Representing the Pyidaungsu Hluttaw

DSI: Defence Services Institute

EAO: Ethnic Armed Organization

Hluttaw: A Burmese parliamentary body.

HSE: Gary Hufbauer, Jeffrey Schott, and Kimberly Elliott—the authors of *Economic Sanctions Reconsidered*—likely the most influential study on the effectiveness of economic sanctions.

IGG: International Gateways Group

Ma Ba Tha: The Patriotic Association of Myanmar

MEB: Myanma Economic Bank

MEC: Myanmar Economic Corporation

MEHL: Myanma Economic Holdings Ltd.

MFTB: Myanma Foreign Trade Bank

MICB: Myanma Investment and Commercial Bank

MOPFI: The NUG's Ministry of Planning, Finance and Investment

MOGE: Myanmar Oil and Gas Enterprise

NLD: National League for Democracy

NUG: National Unity Government

OFAC: The U.S. Office of Foreign Assets Control

OLAF: European Anti-Fraud Office

PDF: People's Defence Force

Pyidaungsu Hluttaw: The name for Myanmar's parliament. It includes both the Amyotha Hluttaw and the Pyithu Hluttaw.

Pyithu Hluttaw: The lower house of Myanmar's parliament.

SAC: State Administration Council

SDN: Specially Designated Nationals

SEE: State-Owned Economic Enterprise

SLORC: State Law and Order Restoration Council

Tatmadaw: Myanmar's military

UEC: Union Election Commission

USDP: Union Solidarity and Development Party

Economic Sanctions on Myanmar (As of June 1, 2024)

V	Type	Description	Reason	U.S.	U.K.	E.U.	Australia	New Zealand (Travel Bans Only)
	Entity	FLIGHT INSURANCE DIVISION	Human rights abuses		X			
	Entity	LIGHT INFRANTRY DIVISION	Military Division	SDN	X			
	Entity	LIGHT INFRANTRY DIVISION	Military Division	SDN	X			
	Entity	LIGHT INFRANTRY DIVISION	Military Division	SDN	X			
	Entity	LIGHT INFRANTRY DIVISION	Military Division	SDN	X			
	Entity	LOHAR COMPANY LIMITED	Owned by Aung Mye Sone	SDN	X			
	Entity	AGAN	Owned by HBCO Group	SDN	X			
	Entity	3 IN DEVELOPMENT BANK LTD	Provides jet fuel to the military	SDN	X	X		
	Entity	LUN GROUP	Provides jet fuel to the military	SDN	X	X		
	Entity	LUN TRADING CO. LTD	Provides jet fuel to the military	SDN	X	X		
	Individual	U. Aung	Infantry Division	SDN	X	X		
	Individual	U. Hain	Commander-in-Chief of Myanmar Air Force	SDN	X	X		
	Individual	U. Khin	Commander-in-Chief of the Navy	SDN	X	X		X
	Individual	U. Mye Myint	Myanmar Region Economic Minister of SAC	SDN	X	X		
	Individual	U. Hain Hain	Arms broker for the military	SDN	X	X		
	Individual	U. Hui Lin	Commander of the 1st Air Command	SDN	X	X		X
	Individual	U. Phyo Aung	Chief of U. General Aung Lin Dwe	SDN	X	X		
	Individual	U. Shwe Mye Phin	Arms broker for the military	SDN	X	X		
	Individual	U. Si Hing	One of the members of the Presidential Commission on the Ministry of Agriculture	SDN	X	X		
	Individual	U. Saw Swee	Minister of the Ministry of Agriculture	SDN	X	X		
	Individual	U. Thein Thein	Spouse of General Mye Tun Co	SDN	X	X		
	Individual	U. Mye Mye Mye	Former Director of the Myanmar Air Force	SDN	X	X		
	Individual	U. Saw Lin	Supplier of fuel to Air Force			X		
	Individual	U. Mye Mye	Former Vice Chairman of the State Peace and Development Council			X		
	Individual	U. Mye Mye	Chief of Staff for Burmese Army, Navy, and Air Force	SDN	X	X		X
	Individual	U. Mye Mye	Spouse of Admiral Tin Aung San	SDN	X	X		
	Individual	U. Mye Mye	Member of the Union Election Commission			X		
	Entity	DOOLA TRANSPORTATION CO. LTD.	MHLSUBS entity			X		
	Entity	DE PAINT MANUFACTURING CO.	MHLSUBS entity			X		
	Entity	DE MIN MYAT	Former Commander-in-Chief			X		
	Entity	DE	Member of SAC			X		
	Entity	DE ARE (POWER) CONSTRUCTION SERVICES	Provides financial support to SAC			X		
	Entity	DE BREWERY LTD	Provides financial support to SAC			X		
	Entity	DE CABLE WIRE FACTORY	Business unit of MHC			X		
	Entity	DE DARWOOD INTERNATIONAL	Provides financial support to SAC			X		
	Entity	DE INDUSTRY STEEL COMPANY	Provides financial support to SAC			X		
	Entity	DE POSCO STEEL CO. LTD.	Provides financial support to SAC			X		
	Entity	DE RIGGS & NEWELL RYCO. LTD.	Operates on behalf of the military	SDN	X	X		
	Entity	DE OILFIELD PETROLEUM LOGISTICS CO. LTD.	Provides jet fuel to the military	SDN	X	X		
	Entity	DE	Human rights abuses in Rakhine State			X		
	Entity	DE	Spouse of Lt. General Mye Mye Tun	SDN	X	X		
	Entity	DE	Provides fuel to the military			X		
	Entity	DE	MHC/UBS entity			X		
	Entity	DE	Member of SAC	SDN	X	X		
	Entity	DE	Provides military equipment for the military	SDN	X	X		
	Entity	DE	Provides arms and equipment for the military	SDN	X	X		
	Entity	DE	Business unit of MHC	SDN	X	X		
	Entity	DE	Business unit of SAC	SDN	X	X		

AG, Min	Individual	Minister of Agriculture, Livestock and Fisheries	SDN	X	X	X
AG, Tum Tun	Individual	Minister of Border Affairs		X		X
ADAY HO TLAND TRAVEL SERVICES	Entity	Provides financial support to SAC				
ADRIK LE (SUNYI SEI) LIVESTOCK BREEDING AND FISHERY CO.	Entity	MEHLUNG BANY		X		
ADW	Individual	Spouse of Lt. General Ye Win Oo	SDN			
ADW	Individual	Spouse of Soe Win	SDN			
A, Chin	Individual	Former Minister of Education	SDN	X		
A, Chin	Individual	Governor of the Central Bank of Myanmar	SDN	X		
AT, Chin	Individual	Retired General; Former Prime Minister	SDN	X	X	
AT, Chin	Individual	Member of SAC	SDN	X	X	
3 OF THE CHIEF OF MILITARY AND SECURITY AFFAIRS	Entity	The military intelligence agency of the Thawma Daw		X	X	
MAUNG MAUNG	Individual	Minister of Information		X	X	X
ung Maing	Individual	Planning to setup a manufacturing facility in Burma with his company Myanmar Chemicals Machinery that would produce military arms and equipment for both domestic use and export, particularly tanks and mortars in conjunction with the privately registered Directorate of Defense Industries	SDN	X	X	X
ung Maing	Individual	Member of the Union Election Commission		X	X	
ung Maing	Individual	SAC Minister for Investment and Foreign Economic Relations	SDN	X	X	X
ung Maing	Individual	Commander of the Western Command		X	X	
UNG MAUNG	Individual	Member of the Union Election Commission		X	X	
UNG MAUNG	Individual	Commander of the Union Command; Head of Ministry of Defense, Technology Development	SDN	X	X	
UNG MAUNG	Individual	Former General	SDN	X	X	
UNG MAUNG	Individual	Member of the Union Election Commission		X	X	
UNG MAUNG	Individual	Former Deputy Minister of Health		X	X	
UNG MAUNG	Individual	Minister of Defense	SDN	X	X	X
UNG MAUNG	Individual	Member of the Union Election Commission		X	X	
UNG MAUNG	Individual	Member of the Union Election Commission		X	X	
UNG MAUNG	Individual	Provides materials support to the Thawma Daw	SDN	X	X	
UNG MAUNG	Individual	Chief Minister of Nay Pyi Taw	SDN	X	X	
UNG MAUNG	Individual	Member of the Union Election Commission		X	X	
UNG MAUNG	Individual	Big and general responsible of human rights abuses committed human rights abuses	SDN	X	X	X
UNG MAUNG	Individual	Former commander of the 2nd Security Police, which Attorney General	SDN	X	X	X
UNG MAUNG	Individual	Chairman of the Anti-Corruption Commission, which has brought public corruption charges against Aung San Suu Kyi	SDN	X	X	
UNG MAUNG	Individual	Former First Vice Minister of Myanmar	SDN	X	X	
UNG MAUNG	Individual	Chief Justice of the Supreme Court	SDN	X	X	X
UNG MAUNG	Individual	Joint Secretary of SAC	SDN	X	X	X
UNG MAUNG	Entity	Business unit of MNC		X	X	
UNIVERSITY LTD.	Entity	Owned by Uin Phyu Win; provides fuel to Thawma Daw	SDN	X		
UNION PTE. LTD.	Entity	Owned by Tin Za				X
UNION PTE. LTD.	Entity	Minister of Education				
UNION PTE. LTD.	Entity	Owned by Uin Phyu Win; provides fuel to Thawma Daw	SDN	X		
UNION PTE. LTD.	Entity	Commander of Bureau of Special Operations No. 3		X		
UNION PTE. LTD.	Entity	Minister of Home Affairs	SDN	X	X	X
UNION PTE. LTD.	Entity	Provides financial support to the Thawma Daw		X		
UNION PTE. LTD.	Entity	Provides financial support to SAC		X		
UNION PTE. LTD.	Entity	Member of SAC	SDN	X	X	
UNION PTE. LTD.	Entity	Minister of Defense	SDN	X	X	X
UNION PTE. LTD.	Entity	Member of SAC	SDN	X	X	X
UNION PTE. LTD.	Entity	Member of SAC	SDN	X	X	X
UNION PTE. LTD.	Entity	Former Commandant, Defense Services Hospital, Mingaladon, Bago		X		
UNION PTE. LTD.	Entity	Owned by Uin Thin Thit Moon	SDN	X	X	

