

Unilateral Economic Sanctions in Asia

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Mr. Chairman, it is a pleasure to appear before this subcommittee to state my views on U.S. unilateral economic sanctions policy as applied in Asia.

Unilateral economic sanctions as an instrument of foreign policy are subject to severe criticism as ineffective in achieving their intended foreign policy objectives while causing inherent adverse impact on U.S. commercial interests. These criticisms have special relevance for Asia because of the nature of the foreign policy objectives engaged and the very large U.S. commercial interests at stake.

There are various forms of economic sanctions, some very narrow in scope, and the presentation here is limited to broadly based sanctions on U.S. commercial relations with targeted countries. These are by far the most important for U.S. foreign policy relationships, and, in Asia, include current trade and investment sanctions against Vietnam and Myanmar -- formerly Burma* -- the annual debate over withdrawal of most-favored-nation (MFN) status for China, and frequent proposals for sanctions against Indonesia. The threat or imposition of such broad-based sanctions in all of these cases is directed at the interrelated U.S. foreign policy objectives in Asia of support for market-oriented economic reforms, democratization, and respect for basic human rights. These are U.S. foreign policy objectives in other parts of the world as well, such as in Latin America and the former Soviet Union, but the central challenge is in Asia because of its enormous size and vitality. The emergence -- or not -- of market-oriented democracies in Asia is the truly "Great Game" for U.S. foreign policy in the 21st century.

In this context, the frequent imposition or threat of unilateral economic sanctions in recent years needs closer public scrutiny, more precise reasoning as to how the sanctions will achieve the intended foreign policy objectives, and more thorough analysis of what the impact of the sanctions will be on U.S. commercial interests. For example, during all the years of exhaustive debate about whether it is in the U.S. interest to withdraw MFN treatment for China, there has never been a comprehensive assessment of the impact of such an action on the Chinese economy or on U.S. trade and investment, direct and indirect, immediate and projected follow on.

As a starting point for such closer scrutiny, I offer three basic questions about economic sanctions as an instrument of foreign policy with answers related to the trans-Pacific relationship, followed by extended comments on U.S. sanctions policies against Vietnam and Myanmar, which are currently going in opposite directions, based on a recent visit to these countries.

1. What is the purpose of economic sanctions as an instrument of foreign policy?

The purpose of economic sanctions is to cause economic pain in the targeted country to the point where an authoritarian government changes its behavior. Unfortunately, the economic pain is felt principally by the people, often the poorest people, rather than government leaders, and authoritarian governments usually tend to become more rather than less repressive as a result. The most all-embracing, multilateral sanctions, with all of the inherent economic pain, have on some occasions been judged to have had positive foreign policy results, but even such limited results are not relevant to U.S. policy in Asia. Multilateral trade and investment sanctions have never been imposed against an Asian nation to bring about market-oriented democratization and respect for human rights, and almost certainly will not be in the foreseeable future.

2. How do unilateral sanctions compare with multilateral sanctions?

Unilateral economic sanctions -- the subject of this hearing -- differ from multilateral sanctions in two important respects. First, the impact -- or economic pain -- of the sanctions is greatly reduced since only U.S. trade and investment is prohibited. If U.S. trade and investment amounts to 20 percent of the total, the other 80 percent with other commercial partners continues. And second, even for the 20 percent U.S. market share, third country competitors can and do move in quickly to displace U.S. exports and investment, with consequent loss to U.S. commercial interests and a further dilution of the economic pain intent of the sanctions. Moreover, such displacement is much broader and quicker in the 1990s than in earlier decades because of the more globalized international competition that exists today. There is, however, a significant difference for sanctions on U.S. imports -- such as through withdrawal of MFN status -- which can result in sustained losses for target country exports, especially in manufacturing industries such as textiles and apparel, footwear, and consumer electronics. In this situation target country rather than U.S. exports are displaced, although there is, of course, the likelihood that in such circumstances the target country will retaliate against U.S. exports. The overall impact of unilateral sanctions as compared with multilateral sanctions is in any event far smaller, especially in Asia, and the record for achieving basic change in authoritarian government behavior with respect to democratization and respect for human rights is zero.

3. What is the impact of U.S. private sector engagement in support of market-oriented democratization?

U.S. exports and foreign direct investment provide clear economic benefits to the U.S. companies engaged and the U.S. economy, but the foreign policy impact is less clearly recognized. My assessment is that it is decidedly positive. The engagement of U.S. companies in the emerging market-oriented economies of Asia is having pervasive beneficial impact in projecting U.S. values and culture. National employees in U.S. companies, in almost all cases, are treated with respect as individuals and are rewarded based on their achievement, including merit-based opportunities for advancement. U.S. companies are more sensitive to labor and environmental standards, fully complying with national standards and then some. They often provide training and technical advice not only to their employees, but to their customers and engaged government officials, which is both good business and a learning process for broader economic and political change. Within reason, U.S. companies advocate more open and less regulated economic policies, with inherent consequences for a more open and decentralized political system as well. Such engagement by the U.S. private sector is only one factor influencing positive political and economic change in the emerging market-oriented economies of Asia, but a very significant factor, which is lost when unilateral economic sanctions prohibit such engagement.

Vietnam and Myanmar: U.S. Policy in Opposite Directions.

Current U.S. policy with respect to unilateral economic sanctions in Asia is going in opposite directions for Vietnam and Myanmar, with sanctions being phased out in the former and phased in in the latter. Both countries have authoritarian governments, one communist and the other military, both are rightly criticized for human rights abuses, and both are engaged in a market-oriented reform process that at this point is deeply troubled and likely to get worse before it gets better.

My assessment of current U.S. policy of phasing out sanctions against Vietnam is that this is the correct course. The lifting of sanctions on U.S. exports and investment four years ago and active promotion of such commerce by the U.S. government -- including eleven American economic/commercial officers and numerous national employees at the U.S. Embassy in Hanoi and the recently established consulate in Ho Chi Minh City -- have resulted in between 200 and 400 U.S. companies doing business in Vietnam. The positive effects of private sector engagement described above are readily apparent. The United States, however, has still not regained its market position from arriving later than its competitors on the more open Vietnamese economy, with only five percent of Vietnamese imports coming from the United States in 1996 compared with 10 to 20 percent in other ASEAN countries, but that is a price to be paid for earlier unilateral sanctions that will take considerable time to rectify.

This is an increasingly difficult time to do business in Vietnam. Overall foreign direct investment commitments were down from \$9 billion in 1996 to \$5 billion in 1997, and will drop even further this year. The older, hard-line communist leadership is resisting necessary deregulation and banking reforms. The Asian

financial crisis is having a delayed but growing adverse impact on Vietnamese exports and investment. A younger generation of Vietnamese within the power structure understands the need for further market-oriented economic reforms, as well as a gradual opening of the political system, thanks to a significant degree of contacts with American companies and the international economic community more broadly, but their influence is limited. It is unclear what will happen over the coming year or two, but the prospect would be even more negative without U.S. private sector engagement.

One final comment about Vietnam is the withholding of MFN treatment for Vietnamese exports which puts Vietnam at a disadvantage vis-a-vis other Asian exporters to the U.S. market, including China and Myanmar. Thus the sanction of clearest adverse impact on Vietnam, as explained above, remains in place, and is the subject of a protracted bilateral trade agreement with the United States. U.S. objectives for this agreement are of clear mutual interest to both countries, but their comprehensive scope means that the negotiation may well drag on for another couple of years, especially in view of the current economic strains on Vietnam from the Asian financial crisis. The content of the proposed bilateral agreement is in fact very close to what Vietnam will have to negotiate for World Trade Organization (WTO) membership. I therefore recommend more modest objectives for the U.S. bilateral agreement now -- together with provision of MFN treatment -- leaving the more comprehensive agreement for later WTO membership negotiations. Such a course would be consistent with other actions the United States is taking, including through IMF support packages, to mitigate the adverse consequences of the Asian financial crisis.

U.S. sanctions policy toward Myanmar is far more disturbing. It is essentially inoperative for the federal government and is out of control elsewhere through the proliferation of wideranging sanctions by state and municipal governments, which are probably unconstitutional.

The central U.S. objective in Myanmar is to pressure the military government to implement its stated objective of moving to a multiparty democratic system, and more precisely to protect and bring more fully into the political process the principal opposition party, the National League for Democracy (NLD), and its leader, Nobel Prize laureate Aung San Suu Kyi. To this end, President Clinton imposed in May 1997 a prohibition on new U.S. investment in Myanmar, although U.S. Treasury regulations defining the scope of the sanction have still not been issued almost a year after the presidential action. Bilateral trade is still permitted, however, and U.S. imports from Myanmar receive MFN treatment.

The 1997 federal U.S. investment sanction has had no discernible adverse impact on the Myanmar economy. The three large U.S. investment projects in offshore natural gas production were permitted to continue since the sanction is only against new investment. Further offshore gas concessions can readily be contracted with European and Asian firms. A few potential U.S. investors

elsewhere may have backed off, but they also can be replaced by third country investors. For example, a U.S. engineering company had done preliminary work to bid on a port development project in the capital city of Yangon, and decided not to make a formal bid because of the sanction, but a Chinese company went on to win the contract.

The state and municipal sanctions, supported by outspoken human rights and other groups opposed to the military regime, are having greater impact, although the adverse effects are again more significant for U.S. companies than for the Myanmar economy. These sanctions caused Texaco, the lead company in one of the three offshore projects, to sell out its share of the project in late 1997, although this share was quickly acquired by the Malaysian firm Petronas. A clear adverse effect on Myanmar is for exports of textiles and apparel, which has been the fastest growing sector of manufactured exports, two-thirds to the U.S. market. Some of the 30 apparel plants in Myanmar have lost export contracts to brand name U.S. clothing firms as a result of the sanctions and anti-military protests, although total U.S. imports of textiles and apparel from Myanmar have continued to grow from \$65 million in 1995 to \$85 million in 1996 to \$92 million in 1997.

U.S. sanctions policy at the federal level is now essentially inoperable because the investment sanction -- as defined in the Cohen/Feinstein amendment of 1996 -- once implemented, cannot be lifted without legislative change (or the extremely unlikely presidential claim of national security interest) and the executive branch has not decided what has to happen in Myanmar before seeking such a legislative change. The first positive step is generally recognized to be a more formal dialogue between the Myanmar government and the NLD under less threatening circumstances for the latter, but this apparently is not enough for seeking legislation to lift the sanction. Myanmar is in deepening economic crisis, principally because of gross mismanagement by the government, the almost complete cutoff of multilateral and bilateral economic assistance for ten years, and the more recent substantial and growing adverse effects of the Asian financial crisis. The U.S. private sector is now almost totally absent from Myanmar for these reasons and the various U.S. sanctions at all levels. There are less than 20 resident members of the American Business Council (ABC) in Yangon, mostly small businesses or individual lawyers and consultants, some of dual nationality. One economic/commercial officer at the American Embassy follows the unusual policy of "neither promoting nor prohibiting trade with Burma by U.S. firms and nationals."

Thus the United States has largely disengaged itself from Myanmar, both officially, with rare high level exchanges between the two governments, and through almost total withdrawal of the private sector. Meanwhile the political standoff over democratization within the country is bleak and could turn violent as the economic crisis deepens. Other U.S. interests in Myanmar are likewise disengaged. Myanmar is the largest heroin producer in the world, but despite interest by the Myanmar government in cooperative efforts to combat heroin

production and exports, and U.S. Drug Enforcement Agency (DEA) eagerness to do so, U.S. overall sanctions policy precludes positive consideration of such cooperation. A broader geopolitical U.S. interest concerns a potential hegemonic Chinese influence in Myanmar, a historic Chinese imperative, including access to the Bay of Bengal, which is now moving toward realization. Up to this point, China is the biggest gainer from U.S. and European diplomatic and economic punitive measures against the military government in Yangon.

In view of the foregoing, I would recommend a serious reassessment of U.S. unilateral sanctions policy toward Myanmar, beginning with a full definition of U.S. interests in that country and greater specificity as to what current policy is, including the role of sanctions.

In conclusion, a more consistent and well reasoned U.S. policy for the use of unilateral economic sanctions in Asia to promote market-oriented democracy and respect for basic human rights is in order. If U.S. private sector engagement in Asian countries is judged to have a positive impact for achieving these objectives, the burden of proof would rest on those advocating sanctions to explain how such sanctions would produce more positive results. When pressed, some unilateral sanctions advocates respond that the imposition of sanctions constitutes, if nothing else, a statement of moral outrage against practices by foreign governments, and when individual members of the Congress, not to mention members of state legislatures and municipal councils, pursue such a line of argument, it can receive a positive emotional response from constituents. U.S. foreign policy, however, should be based on a reasoned assessment of what will work best to achieve agreed upon U.S. objectives rather than on emotion and statements of moral outrage.

*The U.S. government continues to call the country Burma. Standard international procedure, however, is to accept the legitimacy of a government -- and its name for the country -- if it effectively controls its national territory, even if there is no formal recognition through diplomatic relations and serious disputes exist. In this context, the country is referred to here as Myanmar, which implies no value judgment.