



U.S.-Southeast Asia Relations:

## **The New ASEAN Charter Bedeviled by Burma's Impunity**

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While the ASEAN 10 celebrated the association's 40th anniversary by initialing its first Charter giving the group a legal personality at its November Singapore summit, Burma's vicious crackdown on thousands of democracy and human rights demonstrators dampened the exultations. The Bush administration placed new sanctions on the Burmese junta, including the Treasury Department's freezing of companies' assets doing business in Burma and possibly even banks that handle their transactions. Moreover, Washington warned that an ASEAN-U.S. Trade Agreement now depends on Burma's genuine progress toward democracy – an unlikely prospect as long as the junta continues to rule. For the Philippines, Washington has promised more economic and military aid focused primarily on the restive south but partially conditioned on a better human rights performance. Human rights concerns also dominated U.S. relations with Malaysia and Thailand with respect to Kuala Lumpur's crackdown on ethnic Indian demonstrations and Thailand's harsh treatment of Muslim dissidents in the southern provinces.

### **Burma's junta spurns the U.S. and the UN**

The Burmese military's vicious crackdown on Buddhist monks and citizens protesting the ruling junta's arbitrary fuel price increases and tyranny continued from last quarter. In early October, the U.S. chargé d'affaires in Rangoon, Shari Villarosa, stated that thousands of people had been jailed and went on to note that for years Burma had suffered a "steady economic decline, the lack of educational opportunities, a deteriorating health care system, and the general lack of freedom." UN Secretary General Ban Ki-Moon similarly referred to the junta's use of force to suppress peaceful protests as "unacceptable and abhorrent." U.S. Ambassador to the UN Zalmay Khalizad emphasized that the junta's actions were having an effect beyond Burma's borders – a criterion for UN involvement – because conditions had led to the flight of refugees and the spread of infectious diseases. Countering China's claim that pressure could undermine the junta's willingness to cooperate, Khalizad stated that international pressure would "incentivize" the regime to cooperate and if that did not succeed, the U.S. would introduce a new sanctions resolution in the UN Security Council (UNSC). Despite the tough talk, however, Washington realizes that its influence on Burma is weak compared with China, India, and ASEAN.

A unanimous statement (carrying less weight than a resolution) was adopted by the UNSC on Oct. 11 that deplored the violence and called for the early release of political

prisoners and all remaining detainees. The Security Council also appealed to the junta to engage in a “genuine dialogue” with opposition leader Aung San Suu Kyi, who remains under house arrest, in order to achieve national reconciliation, for which the UN offered its direct support. The junta’s only response was to appoint a liaison officer to meet with Aung San Suu Kyi. On Oct. 15, the U.S. Senate joined those condemning the junta’s actions with a resolution that echoed the UNSC statement and also urged China to lift its “veto” on Burma from the UNSC so that body could do more to protect human rights in that country. China, India, and ASEAN brushed aside the U.S. appeal.

In late October, Deputy Secretary of State John Negroponte called on China and India as major Asian powers to suspend arms sales and energy investments in Burma over its political repression and to back UN calls for an end to the crackdown on pro-democracy activists. By December the State Department sadly concluded that “Senior Gen. Than Shwe and his regime have no intention to begin a genuine, inclusive dialogue necessary for a democratic transition ... as called for by the international community.” The State Department also estimated that 1,800 political prisoners were still being held.

As for sanctions, there is little more the U.S. can add to the economic penalties that Washington and the EU have had in place for several years. The latest iteration has been a freeze on U.S.-based assets of Burma’s military leader and 13 top officials as well as visa bans on 30 members of the junta and their families. It is unlikely, however, that Burma’s leaders have significant assets in the U.S. or that their families are eager to visit. Indeed, the new sanctions appear redundant since the 2003 Burma Peace and Democracy Act already provided for asset freezes and visa bans. Moreover, U.S. trade with Burma is minimal.

One new wrinkle in U.S. sanctions could, however, have a broader impact. On Oct. 19, President Bush signed an executive order that allowed the Treasury Department to freeze the assets of “individuals who provide material or financial support to designated individuals or the government of Burma.” Five U.S.-based Burmese business executives and seven companies were immediately hit with these sanctions. Singapore banks, the financial institutions of choice for Burma’s generals, have reportedly slowed processing transactions from Burma to insure that their clients are not on the U.S. sanctions list. The banks may be concerned about their international reputations and the prospect of being sanctioned themselves as in the September 2005 U.S. sanctions applied to Macao’s Banco Delta Asia over North Korean funds. In mid-November, a bill was also working its way through Congress to prohibit Burmese gem imports into the U.S. that were polished or cut in a third country.

Indicative of the high regard in which Aung San Suu Kyi is held in the U.S. Congress, on Dec. 18, the House of Representatives unanimously awarded its highest civilian honor, the Congressional Gold Medal, to the detained pro-democracy leader.

Undeterred by U.S., European, UN, and even some ASEAN condemnation, Burma in late October accused Washington of inciting the September pro-democracy demonstrations in hopes of installing a puppet government. Pro-government rallies staged in Rangoon by

supporters of the regime carried anti-American slogans, pictures of which appeared on the government website along with photos purportedly showing U.S. prisoner abuse and children suffering from the Iraq war. In mid-November a portrait of President Bush was burned in a junta-organized rally in the northern Shan state. Other rallies throughout the country included posters deriding a “skyful of liars,” naming the *BBC*, *VOA*, and *Radio Free Asia*.

In early December, the junta’s information minister, Brig. Gen. Kyaw Hsan, claimed the U.S. embassy had trained activists during a three-day course at the Rangoon American Center. The Center had been accused of sponsoring similarly seditious activities in the past. The standoff between Burma and its U.S., European, and UN antagonists continues while ASEAN, India, and China remain on the sidelines.

### **For ASEAN, Burma continues to muddy the water**

On Nov. 19 at the Singapore ASEAN summit, a landmark Charter was adopted by the Association – its first full-scale legal commitment to human rights, democratic ideas, and an economic community. The timing, however, on the heels of Burma’s vicious crackdown on dissent, once again exposed ASEAN’s inability to discipline its members. U.S. Trade Representative (USTR) Susan Schwab, attending the post-summit series of meetings, praised the Charter’s commitment to economic integration by 2015, five years earlier than originally planned. Other elements of the Charter disappointed observers both within and outside ASEAN. The principle of non-interference in members’ internal affairs was maintained, undoubtedly at the insistence of the Indochinese countries and Burma. The consensus principle for decision-making also continues, in effect giving any member a veto. Also, the Charter does not mention either expulsion or suspension of members found in serious breach of the Charter’s provisions and the Charter’s statements on democracy and human rights carry no provisions for implementation.

Schwab warned that a U.S.-ASEAN free trade agreement would be impossible so long as Burma does not proceed toward genuine democratization. She insisted that “[t]he reputation and credibility of ASEAN ... has been called into question because of the situation in Burma.” The future of the Charter itself is problematic since all ASEAN members must ratify it within one year and President Arroyo of the Philippines has predicted that the Philippine Senate would have “extreme difficulty” doing so unless Burma moved onto the path of democracy and freed opposition leader Aung San Suu Kyi. Attempting to put a better spin on ASEAN-U.S. relations, Undersecretary of State for Political Affairs Nicholas Burns in early December affirmed U.S. support for ongoing ASEAN and UN efforts to push a dialogue between the junta and Aung San Suu Kyi. He also stated that the U.S. has “great respect for the way Singapore acted as ASEAN Chair and in hosting the [ASEAN Summit].” Nevertheless, U.S. influence on Burma’s future appears to be waning as China, India, and other ASEAN members brushed aside Washington’s call for an economic embargo and diplomatic isolation of the junta.

In mid-December at a U.S.-ASEAN senior officials dialogue in San Francisco, U.S. officials stated it would probably be difficult for President Bush to host the ASEAN leaders he had invited to his Texas ranch last September, considering what had happened in Burma. If the president cancels the invitation to the summit probably scheduled for early 2008, it would be the second time Bush scrapped talks with leaders of the 10 ASEAN member states within the last 12 months. In response to Southeast Asian complaints that the U.S. was ignoring ASEAN, U.S. Ambassador to Thailand Ralph Boyce stated that to the contrary, the Bush administration had upgraded its attention to the region multilaterally and bilaterally. Nevertheless, the ambassador acknowledged in a Dec. 19 interview that China may currently be more influential in the region: "Some people call it the emergence of China; its' really the re-emergence of China. It's a more natural state of things .... [I]f other countries are going to be more active in the region, it means we have to be more active too."

### **Military aid and human rights continue to dominate U.S.-Philippine relations**

U.S. military assistance to the Philippines and the country's human rights situation continue to dominate bilateral relations. In October, the U.S. Senate authorized \$60 million in combined military and economic aid, \$14 million more than the U.S. State Department requested, but tied the funds to ending human rights abuses. Specifically, the U.S. Congress has been concerned about extrajudicial killings in the Philippines of journalists and others who are critical of the government. Elements of the armed forces are suspected of perpetrating the atrocities, though the government insists the killings are the result of factional disputes within leftist organizations. No one has been apprehended or charged in the slayings, and, as an incentive to the Philippine government, the U.S. Senate has offered an additional \$2 million in 2008 "subject to the progress of such official initiatives in getting to the bottom of these slayings."

The bulk of the military aid is to modernize Philippine forces for the purpose of assisting in the global war on terror, in other words, to continue going after the Abu Sayyaf terrorist group in the south. As for the human rights concerns, in early November, a Philippine military spokesman said the armed forces now requires a "human rights clearance" for those being promoted to the rank of colonel and has set up a Human Rights Office within their commands to receive complaints from the public against their troops. Philippine human rights groups have welcomed the U.S. conditions. To receive the extra \$2 million, the U.S. Senate requires that the secretary of state report that the Philippine government is implementing the recommendations of the UN Special Rapporteur on extrajudicial ... executions. And, indeed by November, a few military personnel were reportedly undergoing pre-trial investigations for human rights abuses. Both the UN Special Rapporteur and the Philippines own investigatory group – the Melo Commission – acknowledge that rogue elements and not the military as a whole are involved. Philippine human rights organizations had testified before the U.S. Senate last summer in hearings that led to the new conditions imposed by the U.S.

Meanwhile, U.S. joint exercises and training support continue. The annual *Philbex* exercise took place in October with 3,500 Philippine and U.S. forces. The Philippine

commander, Maj. Gen. Ben Dolorfino, specifically thanked U.S. Special Forces for providing intelligence to the Philippine military's efforts in Sulu. The Philippine press reported in mid October (*Inquirer Express*, Oct. 17, 2007) that U.S. Special Forces have actually established a "forward operating base" in Sulu where pre-positioned equipment is maintained and a small number of rotational U.S. personnel are permanently deployed. The product of a U.S. Pacific Command concept, these "lily pads" would be available to U.S. forces for joint exercises with host countries and as supply points for military activities in the region, as required. The U.S. presence in Mindanao is strategically positioned near the Makassar Strait at the southwestern rim of the South China Sea. The only problem with these developments is that the Philippine constitution prohibits the presence of foreign military bases. Therefore, neither the Philippine nor U.S. governments refer to the U.S. Special Forces deployment in Mindanao or the supply caches as permanent. Rather, the emphasis is that they are rotational for purposes of counter-terrorist training and joint exercises. The U.S. forces also include civic action in all joint exercises in the Philippines, providing medical and dental care for local populations, building roads, school, and improving sanitation. Pacific Special Operations Command spokesman Col. Rudy Aquino pointed out: "Our activities with the [Philippine] military are in concert with the host nation's wishes. What we do is at the invitation of the host country .... The bottom line is we do not engage in combat .... That's a hard and fast rule, it's a clear policy."

U.S. lawmakers also agreed to increase military aid for Indonesia to \$15.7 million in 2008 with some of the money being contingent on Jakarta's willingness to account for past human rights violations by the Indonesian military, access to Papua province where a small separatist army seeks independence, and the completion of a criminal investigation on the 2004 killing of a renowned Indonesian human rights activist.

### **U.S. human rights concerns in Malaysia and Thailand**

Malaysia has been viewed by the U.S. as a model of moderate Islam epitomized by Prime Minister Abdullah Badawi's concept: *Islam hidari*. However, the country has always experienced tension between its dominant Malay Muslim community and the minority Chinese and Indian populations. While most of the friction has been found in Chinese resentment of Malay privileges through the government's "affirmative action" toward the Malays in education, business, and other perks, in November, the Indian population engaged in two rare mass protests numbering 30,000 marchers. These demonstrations were in response to the indiscriminate destruction of Hindu temples as well as the equally sensitive issue of discrimination faced by the Indian minority, generally viewed as the least well off ethnic group in Malaysia.

The government cracked down on the dissenters, arresting leaders of the demonstrations and other government critics and threatening to try them for sedition and murder. On Dec. 10, the U.S. State Department called on Malaysia to allow freedom of expression and assembly. Department spokeswoman Nancy Beck, in an interview with *Agence France Presse*, said: "We also stated in our annual human rights report our belief that the Malaysian government places significant restrictions on the right to assemble

peacefully.” The human rights report goes on to say that permits to assemble are determined by senior police and political leaders on political grounds against minorities and dissidents. Prime Minister Abdullah has threatened to invoke draconian security laws that allow detention without trial: “If the choice is between public safety and public freedom, I do not hesitate to say here that public safety will always win.” Meanwhile, the U.S. Congress-appointed U.S. Commission on International Religious Freedom has urged the Bush administration to raise the matter with Kuala Lumpur and “insist that immediate measures be taken to protect sacred sites and prevent further destruction.” Malaysia rejected the U.S. criticism. Foreign Minister Syed Hamid Albar noted that Malaysia is merely applying its laws under which police permits are required for the assembly of five or more people. And, on Dec. 15, Deputy Prime Minister Najib Razak said the U.S. should take care of its own human rights problems. If the U.S. would give a fair trial to prisoners held in Guantanamo, then Malaysia would respond to the criticism.

Washington has also expressed concern about Thailand’s treatment of 400 Muslim men who have been banned from returning to their homes in the restive southern border provinces. U.S. Ambassador Ralph Boyce stated the ban constitutes a violation of the men’s human right to return to their homes and families. Thai army chief Gen. Anupong Paochinda stated he also was opposed to the ban and directed the Fourth Army Chief, Wiroj Buocharan, to lift it – perhaps an instance where human rights groups and international concern had a salutary effect.

### **Cambodia-U.S. ties improve; Vietnam-U.S. economic ties advance**

In efforts to improve relations with Cambodia attendant upon Chevron’s discovery of oil and gas deposits in Cambodia’s coastal waters and China’s rising influence, the U.S. has been assisting the Hun Sen government along a variety of dimensions, including education, public health, preventing corruption – a serious problem particularly in land expropriation – and resource management with an eye toward the energy discoveries. U.S. aid for 2007 is expected to top \$65 million. To assist Cambodia’s navy in protecting its coastline, last August U.S. Pacific Command’s Adm. Timothy Keating offered military training and other assistance, renewing support that had been suspended a decade earlier after a 1997 coup by current Prime Minister Hun Sen, who ousted his co-premier Prince Norodom Ranariddh. In late November, U.S. Marine Corps personnel began a training program for Cambodia’s National Counter-Terrorism Task Force.

Economic relations between Vietnam and the U.S. continue their upward trajectory. In early November, Deputy Trade Minister Le Danh Vinh pointed to a trade advance from \$54 million in 1995 to an expected \$11 billion in 2007. U.S. direct investment in the country since 2000 is about \$4 billion, with more than a thousand U.S. businesses operating including many leading companies such as Citi Group, Boeing, GE, Microsoft, IBM, Intel, Coca Cola and Pepsi Cola. In economic terms, Vietnam is seen as ASEAN’s latest success story.

## **The way ahead**

Despite the Burmese junta's impunity and intransigence, another cancellation of the U.S.-ASEAN summit should be avoided. Southeast Asian states are very sensitive to any indications of political slights by Washington even if, as in the case of Burma's behavior, they may seem justified. ASEAN members are engaging in a diplomatic hedging strategy that includes invitations to the great powers (the U.S., China, Japan, the EU, and increasingly Russia). While Washington's actual involvement in Southeast Asia is much stronger than frequently acknowledged in the region: witness U.S. naval deployments, joint exercises, economic and military assistance, and commercial activities; symbolic politics remain important. It would be best for the Bush administration to find some way to hold the summit meeting promised by the president – perhaps by permitting a diplomat from Burma's U.S. mission to represent that country.

### **Chronology of U.S. Southeast Asian Relations October - December 2007**

**Oct. 1, 2007:** The U.S. Senate passes a bipartisan resolution calling on Burma's ruling junta to begin dialog with opposition ethnic groups and the National League for Democracy leader, Aung San Suu Kyi.

**Oct. 4, 2007:** First Lady Laura Bush urges the junta in Burma to “step aside” and calls for a UNSC resolution calling for a peaceful transition to democracy.

**Oct. 5, 2007:** U.S. Ambassador to the UN Zalmay Khalilzad, speaking before the UNSC, excoriates the Burmese junta for its suppression of peacefully protesting monks and civilians and warns the U.S. might propose a new UNSC resolution increasing sanctions.

**Oct. 5, 2007:** The U.S. Chargé in Burma, Shari Villarosa, is invited to the new capital, Naypyidaw, to meet junta members.

**Oct. 10, 2007:** While in Honolulu for a State Department conference, Villarosa says that Burma's people “need the support of the international community.”

**Oct. 10-11, 2007:** U.S. Air Force Secretary Michael Wynne visits Singapore.

**Oct. 11, 2007:** Undersecretary of State Burns calls on Burma to release all political prisoners and refrain from further violence against the civilian population.

**Oct. 15-31, 2007:** *Talon Vision 2007*, a land- and sea-based exercise, and the concurrent Amphibious Landing Exercise (*PHILBEX*) are held to facilitate military interoperability between the U.S. and the Philippines. Bilateral medical and dental clinics and civic action projects were a major part of these exercises.

**Oct. 19, 2007:** President Bush expands financial sanctions on Burma's leadership to an additional 14 high-level officials, while the Commerce Department blocks technology sales with dual-use capabilities.

**Oct. 22, 2007:** U.S. Chargé in Cambodia Piper Campbell states that offshore oil and gas deposits provide great potential, but managing these resources is a problem given the country's corruption.

**Oct. 23, 2007:** Singapore is doubling its air force fighter fleet by buying 12 *F-15s*.

**Oct. 23, 2007:** Deputy Secretary of State Negroponte states China and India should suspend arms sales to Burma over its political repression.

**Nov. 2, 2007:** The Bush administration sharply criticizes the Burmese military junta's decision to expel Charles Petrie, the UN's top resident diplomat, from the country after he issued a statement urging the junta to heed the voices of the protestors.

**Nov. 5-7, 2007:** Commerce Secretary Carlos Gutierrez meets Vietnam's Prime Minister Nguyn Tan Dung in Hanoi for three days of talks on expanding trade ties. Executives from major U.S. corporations accompanied Secretary Gutierrez.

**Nov. 14-18, 2007:** Two U.S. warships dock in Haiphong, the first to visit northern Vietnam since the end of the Second Indochina War in 1975.

**Nov. 15, 2007:** The U.S. Embassy in Hanoi announces \$1 million in aid to help Vietnam in the aftermath of heavy floods in the central provinces.

**Nov. 16, 2007:** U.S. Senate unanimously passes a resolution urging ASEAN to suspend Burma's membership for human rights violations.

**Nov. 18-19, 2007:** USTR Schwab meets ASEAN economic ministers in Singapore to discuss progress under the U.S.-ASEAN Trade and Investment Framework Agreement.

**Nov. 21, 2007:** USTR Schwab meets Cambodia's minister of commerce to discuss deepening trade and investment relations.

**Nov. 28, 2007:** The *USS Essex* arrives in Sihanoukville, the second U.S. warship to visit Cambodia this year. The crew conducts medical and dental clinics as well as trains with the Cambodian military.

**Dec. 2-4, 2007:** U.S. Pacific Fleet Commander Adm. Robert Willard, in Singapore, praises the "excellent defense relationship" between the two states.

**Dec. 3, 2007:** Undersecretary of State Burns visits Singapore to discuss regional and global issues with top government leaders, underlining the city-state's important role.



**Dec. 3-5, 2007:** Acting Assistant Secretary of State for Political-Military Affairs Stephan Mull visits Vietnam and states that the U.S. is helping improve the Vietnam army's capacities in relief and rescue and international peace keeping. He also discusses counter-terror cooperation and non-proliferation of nuclear weapons.

**Dec. 9, 2007:** U.S. Ambassador to Cambodia Joseph Mussomeli and UN human rights representative Yash Ghai join 500 local rights activists in a march calling for an end to corruption.

**Dec. 10, 2007:** First Lady Laura Bush speaking on International Human Rights Day calls on Burma's military junta to step aside if it is unwilling to bring about a democratic transformation.

**Dec. 11, 2007:** President Bush threatens to impose new sanctions on Burma if the military regime continues to ignore calls for a democratic transition and release political prisoners, including Nobel laureate Aung San Suu Kyi, who is under house arrest.

**Dec. 12-14, 2007:** The U.S., Singapore, and Thai Air Forces hold the opening phase of the annual *Cope Tiger* exercise in Singapore. The second phase which will involve flying exercises will be held in Thailand from Jan. 27- Feb. 5.

**Dec. 12-14, 2007:** U.S. Pacific Commander Adm. Timothy Keating leads a delegation to Vietnam at the invitation of the deputy chief of the Vietnam Peoples Army.

**Dec. 14, 2007:** Adm. Keating visits Laos to talk with foreign and defense ministry officials on cooperative defense relations.

**Dec. 17, 2007:** U.S. House of Representatives votes unanimously to award the Congressional Gold Medal – the highest American civilian award–to Burma democracy icon Aung San Suu Kyi.

**Dec. 18, 2007:** Forty-eight U.S. senators from both parties urge President Bush to push the UN Security Council to impose an international arms embargo on the Burmese military junta.

**Dec. 23, 2007:** The People Power Party claims victory in the first Thai elections since a 2006 military coup, but its share of votes fell short of an absolute majority, making a coalition government a necessity.