



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 06.10.2004
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Proposal for a

COUNCIL REGULATION

**amending Regulation (EC) No 798/2004 renewing the restrictive measures in respect of
Burma/Myanmar, as regards the financing of certain enterprises**

(presented by the Commission)

EXPLANATORY MEMORANDUM

- (1) On 28 October 1996, the Council imposed certain restrictive measures against Burma/Myanmar by Common Position 1996/653/CFSP in view of the political situation in that country. These measures were subsequently extended and amended several times, most recently by Common Position 2004/423/CFSP.
- (2) Some of the restrictive measures imposed against Burma/Myanmar were implemented in the Community by Regulation (EC) No 798/2004.
- (3) In view of its continuing concern about the human rights situation in Burma/Myanmar, the Council has decided in its Common Position 2004/.../CFSP to strengthen the restrictive measures in respect of Burma/Myanmar.
- (4) In view of this Regulation (EC) No 798/2004 should be amended to implement the prohibition to make financing available to Burmese state-owned enterprises.

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amending Regulation (EC) No 798/2004 renewing the restrictive measures in respect of Burma/Myanmar, as regards the financing of certain enterprises

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Council Common Position 2004/.../CFSP amending Common Position 2004/423/CFSP regarding restrictive measures in respect of Burma/Myanmar¹,

Having regard to the proposal from the Commission²,

Whereas:

- (1) On 28 October 1996, the Council, concerned at the absence of progress towards democratisation and at the continuing violation of human rights in Burma/Myanmar, imposed certain restrictive measures against Burma/Myanmar by Common Position 1996/653/CFSP³. In view of the continuing severe and systematic violations of human rights by the Burmese authorities, and in particular the continuing and intensified repression of civil and political rights, and the failure of those authorities to take steps towards democracy and reconciliation, the restrictive measures against Burma/Myanmar have subsequently been extended several times, most recently by Common Position 2004/423/CFSP⁴ on Burma/Myanmar. Some of the restrictive measures imposed against Burma/Myanmar have been implemented at Community level by Council Regulation (EC) No 798/2004⁵.
- (2) In view of the lack of improvement in the political situation in Burma/Myanmar, as witnessed by the failure of the military authorities to release Daw Aung San Suu Kyi and other members of the National League for Democracy (NLD) and to allow a genuine and open National Convention, and in view of the continued harassment of the NLD, Common Position 2004/.../CFSP maintains the restrictive measures imposed in respect of Burma/Myanmar by Common Position 2004/423/CFSP and strengthens the restrictive measures to include, *inter alia*, a prohibition on making financing available to certain Burmese state-owned enterprises.

¹ OJ L , , p. .

² OJ C , , p. .

³ OJ L 287, 8.11.1996, p. 1.

⁴ OJ L 125, 28.4.2004, p. 61.

⁵ OJ L 125, 28.4.2004, p. 4. Regulation as last amended by Regulation (EC) No 1517/2004 (OJ L 278, 27.8.2004, p. 18).

- (3) This measure falls within the scope of the Treaty and, therefore, in order to avoid any distortion of competition, Community legislation is necessary to implement them as far as the Community is concerned.
- (4) In order to ensure that the measures provided for in this Regulation are effective, this Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 798/2004 is amended as follows:

- (1) The following point is added to Article 1:

“6. ‘financing’ means

- (a) the extension of financial loans and credits, or the acquisition of bonds, and
- (b) the acquisition or extension of a participation in a legal person or entity, including the acquisition in full of existing legal persons or entities and the acquisition of shares and securities of a participating nature.”

- (2) The following Article 6 a is inserted :

“Article 6 a

No financing shall be made available to Burmese state-owned enterprises as listed in Annex IV.”

- (3) Article 12 is replaced by the following:

“Article 12

The Commission shall be empowered to:

- (a) amend Annex II on the basis of information supplied by Member States,
- (b) amend Annexes III and IV on the basis of decisions taken in respect of Annexes I and II to Common Position 2004/.../CFSP.”

- (4) The Annex to this Regulation is added as Annex IV.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

ANNEX

“ANNEX IV

[List of Burmese enterprises referred to in Article 6 a]”