

COUNCIL REGULATION (EC) No 1853/2004

of 25 October 2004

concerning additional restrictive measures in respect of Burma/Myanmar and amending Regulation (EC) No 798/2004

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 2004/730/CFSP of 25 October 2004 on additional restrictive measures against Burma/Myanmar and amending Common Position 2004/423/CFSP⁽¹⁾,

Having regard to the proposal from the Commission,

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 1996/635/CFSP⁽²⁾. 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/CFSP⁽³⁾. Some of the restrictive measures imposed against Burma/Myanmar have been implemented at Community level by Council Regulation (EC) No 798/2004 of 26 April 2004 renewing the restrictive measures in respect of Burma/Myanmar and repealing Regulation (EC) No 1081/2000⁽⁴⁾.

(2) In view of the current 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) as well as other political detainees, and the failure to allow a

genuine and open National Convention, and in view of the the continued harassment of the NLD and other organised political movements, Common Position 2004/730/CFSP maintains and strengthens the restrictive measures imposed in respect of Burma/Myanmar by Common Position 2004/423/CFSP to include, inter alia, a prohibition on making financial loans or credits available to, and on acquiring or extending a participation in, Burmese state-owned enterprises; while such prohibition should not affect the execution of related obligations resulting from existing contracts or agreements, the conclusion of new contracts or agreements on the subject-matter of this Regulation or the renewal of existing contracts or agreements after their expiration should be prohibited after the entry into force of this Regulation.

(3) These measures fall 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.

(5) Regulation (EC) No 798/2004 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

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

1. the following Article shall be inserted:

'Article 8a

1. The following shall be prohibited:

(a) the granting of any financial loan or credit to Burmese state-owned enterprises as listed in Annex IV, or the acquisition of bonds, certificates of deposit, warrants or debentures, issued by these enterprises,

⁽¹⁾ See page 17 of this edition of the Official Journal.

⁽²⁾ OJ L 287, 8.11.1996, p. 1. Common Position repealed and replaced by Common Position 2003/297/CFSP (OJ L 106, 29.4.2003, p. 36).

⁽³⁾ OJ L 125, 28.4.2004, p. 61. Common Position as amended by Common Position 2004/730/CFSP.

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

(b) the acquisition or extension of a participation in Burmese state-owned enterprises as listed in Annex IV, including the acquisition in full of such enterprises and the acquisition of shares and securities of a participating nature.

2. The participation, knowingly and intentionally, in activities, the object or effect of which is, directly or indirectly, to circumvent the provisions of paragraph 1 shall be prohibited.

3. Paragraph 1 shall be without prejudice to the execution of trade contracts for the supply of goods or services on usual commercial payment conditions and the usual supplementary agreements in connection with the execution of these contracts such as export credit insurances.

4. The provisions of paragraph 1(a) shall be without prejudice to the execution of an obligation arising from contracts or agreements concluded before the entry into force of this Regulation.

5. The prohibition in paragraph 1(b) shall not prevent the extension of a participation in Burmese State-owned enterprises as listed in Annex IV, if such extension is compulsory under an agreement concluded with the Burmese State-owned enterprise concerned before the entry into force of this Regulation. The relevant competent authority, as listed

in Annex II, and the Commission shall be informed prior to any such transaction. The Commission shall inform the competent authorities of the other Member States.;

2. Article 12 shall be 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 2004/423/CFSP as amended by Common Position 2004/730/CFSP. (*)

(*) OJ L 323, 26.10.2004, p. 17.'

3. The Annex set out in the Annex hereto shall be added.

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 Luxembourg, 25 October 2004.

For the Council
The President
R. VERDONK

ANNEX

'ANNEX IV

List of Burmese State-owned enterprises referred to in article 8 (a)

Name	Address	Name of Director
I. UNION OF MYANMAR ECONOMIC HOLDING LTD		
UNION OF MYANMAR ECONOMIC HOLDING LTD	189/191 MAHABANDoola ROAD, CORNER OF 50TH STREET, YANGON	MAJ-GEN WIN HLAING, MANAGING DIRECTOR
A. MANUFACTURING		
1. MYANMAR RUBY ENTERPRISE	24/26, 2ND FL., SULE PAGODA ROAD, YANGON (MIDWAY BANK BUILDING)	
2. MYANMAR IMPERIAL JADE CO. LTD	24/26, 2ND FL., SULE PAGODA ROAD, YANGON (MIDWAY BANK BUILDING)	
3. MYANMAR RUBBER WOOD CO. LTD		
4. MYANMAR PINEAPPLE JUICE PRODUCTION		
5. MYAWADDY CLEAN DRINKING WATER SERVICE	4/A, NO 3 MAIN ROAD, MINGALARDON TSP, YANGON	
6. SIN MIN (KING ELEPHANTS) CEMENT FACTORY (KYAUKSE)	189/191 MAHABANDoola ROAD, CORNER OF 50TH STREET, YANGON	COL MAUNG MAUNG AYE, MANAGING DIRECTOR
7. TAILORING SHOP SERVICE		
8. NGWE PIN LE (SILVER SEA) LIVESTOCK BREEDING AND FISHERY CO.	1093, SHWE TAUNG GYAR ST. INDUSTRIAL ZONE II, WARD 63, SOUTH DAGON TSP, YANGON	
9. GRANITE TILE FACTORY (KYAIKTO)	189/191 MAHABANDoola ROAD, CORNER OF 50TH STREET, YANGON	
10. SOAP FACTORY (PAUNG)	189/191 MAHABANDoola ROAD, CORNER OF 50TH STREET, YANGON	
B. TRADING		
1. MYAWADDY TRADING LTD	189/191 MAHABANDoola ROAD, CORNER OF 50TH STREET, YANGON	COL MYINT AUNG, MANAGING DIRECTOR
C. SERVICES		
1. MYAWADDY BANK LTD	24-26 SULE PAGODA ROAD, YANGON	BRIG-GEN WIN HLAING AND U TUN KYI, MANAGING DIRECTORS
2. BANDoola TRANSPORTATION CO. LTD	399, THIRI MINGALAR ROAD, INSEIN TSP, YANGON AND/OR PARAMI ROAD, SOUTH OKKALAPA, YANGON	COL MYO MYINT, MANAGING DIRECTOR

Name	Address	Name of Director
3. MYAWADDY TRAVEL SERVICES	24-26, SULE PAGODA ROAD, YANGON	
4. NAWADAY HOTEL AND TRAVEL SERVICES	335/357, BOGYOKE AUNG SAN ROAD, PADEBAN TSP, YANGON	
5. MYAWADDY AGRICULTURE SERVICES	189/191 MAHABANDoola ROAD, CORNER OF 50TH STREET, YANGON	
6. MYANMAR AR (POWER) CONSTRUCTION SERVICES	189/191 MAHABANDoola ROAD, CORNER OF 50TH STREET, YANGON	
JOINT VENTURES AND SUBSIDIARIES		
A. MANUFACTURING		
1. MYANMAR SEGAL INTERNATIONAL LTD	PYAY ROAD, PYINMABIN INDUSTRIAL ZONE, MINGALARDON TSP, YANGON	U BE AUNG, MANAGER
2. MYANMAR DAEWOO INTERNATIONAL	PYAY ROAD, PYINMABIN INDUSTRIAL ZONE, MINGALARDON TSP, YANGON	
3. ROTHMAN OF PALL MALL MYANMAR PRIVATE LTD	NO 38, VIRGINIA PARK, NO 3, TRUNK ROAD, PYINMABIN INDUSTRIAL ZONE, YANGON	
4. MYANMAR BREWERY LTD	NO 45, NO 3, TRUNK ROAD, PYINMABIN INDUSTRIAL ZONE, MINGALARDON TSP, YANGON	RETD LT-COL MAUNG MAUNG AYE, CHAIRMAN
5. MYANMAR POSCO STEEL CO. LTD	PLOT 22, NO 3, TRUNK ROAD, PYINMABIN INDUSTRIAL ZONE, MINGALARDON TSP, YANGON	
6. MYANMAR NOUVEAU STEEL CO. LTD	NO 3, TRUNK ROAD, PYINMABIN INDUSTRIAL ZONE, MINGALARDON TSP, YANGON	
7. BERGER PAINT MANUFACTURING CO. LTD	PLOT NO 34/A, PYINMABIN INDUSTRIAL ZONE, MINGALARDON TSP, YANGON	
8. THE FIRST AUTOMOTIVE CO. LTD	PLOT NO 47, PYINMABIN INDUSTRIAL ZONE, MINGALARDON TSP, YANGON	U AYE CHO AND/OR LT-COL TUN MYINT, MANAGING DIRECTOR
9. MERCURY RAY MANUFACTURING LTD	PYINMABIN INDUSTRIAL ZONE, MINGALARDON TSP, YANGON	U NYO MIN OO
10. MYANMAR HWA FU INTERNATIONAL LTD	NO 3, MAIN ROAD, PYINMABIN INDUSTRIAL ZONE, MINGALARDON TSP, YANGON	

Name	Address	Name of Director
11. MYANMAR MA MEE DOUBLE DECKER CO. LTD	PLOT 41, TRUNK ROAD, PYINMABIN INDUSTRIAL ZONE, MINGALARDON TSP, YANGON	
12. MYANMAR SAM GAUNG INDUSTRY LTD	NO 6/A, PYAY ROAD, PYINMABIN INDUSTRIAL ZONE, MINGALARDON TSP, YANGON	
13. MYANMAR TOKIWA CORP.	44B/NO 3, TRUNK ROAD, PYINMABIN INDUSTRIAL ZONE, MINGALARDON TSP, YANGON	
14. MYANMAR KUROSAWA TRUST CO. LTD	22, PYAY ROAD, 7 MILE, MAYANGONE TSP, YANGON	
B. TRADING		
1. DIAMOND DRAGON (SEIN NAGA) CO. LTD	189/191 MAHABANDoola ROAD, CORNER OF 50TH STREET, YANGON	
C. SERVICES		
1. NATIONAL DEVELOPMENT CORP.	3/A, THAMTHUMAR STREET, 7 MILE, MAYANGONE TSP, YANGON	DR. KHIN SHWE, CHAIRMAN
2. HANTHA WADDY GOLF RESORT AND MYODAW (CITY) CLUB LTD	NO 1, KONEMYINTHA STREET, 7 MILE, MAYANGONE TSP, YANGON AND THIRI MINGALAR ROAD, INSEIN TSP, YANGON	
3. MYANMAR CEMENT LTD		
4. MYANMAR HOTEL AND CRUISES LTD	RM. 814/815, TRADER'S HOTEL, 223, SULE PAGODA ROAD, YANGON	
II. MYANMA ECONOMIC CORPORATION (MEC)		
MYANMA ECONOMIC CORPORATION (MEC)	SHWEDAGON PAGODA ROAD, DAGON TSP, YANGON	COL YE HTUT OR BRIG-GEN KYAW WIN, MANAGING DIRECTOR
1. INNWA BANK	554-556, MERCHANT STREET, CORNER OF 35TH STREET, KYAUKTADA TSP, YANGON	U YIN SEIN, GENERAL MANAGER
2. MYAING GALAY (RHINO BRAND) CEMENT FACTORY	FACTORIES DEPT, MEC HEAD OFFICE, SHWEDAGON PAGODA ROAD, DAGON TSP, YANGON	COL KHIN MAUNG SOE

Name	Address	Name of Director
3. DAGON BREWERY	555/B, NO 4, HIGHWAY ROAD, HLAW GAR WARD, SHWE PYI THAR TSP, YANGON	
4. MEC STEEL MILLS (HMAW BI/PYI/ YWAMA)	FACTORIES DEPT, MEC HEAD OFFICE, SHWEDAGON PAGODA ROAD, DAGON TSP, YANGON	COL KHIN MAUNG SOE
5. MEC SUGAR MILL	KANT BALU	
6. MEC OXYGEN AND GASES FACTORY	MINDAMA ROAD, MINGALARDON TSP, YANGON	
7. MEC MARBLE MINE	PYINMANAR	
8. MEC MARBLE TILES FACTORY	LOIKAW	
9. MEC MYANMAR CABLE WIRE FACTORY	NO 48, BAMAW A TWIN WUN ROAD, ZONE (4), HLAING THAR YAR INDUSTRIAL ZONE, YANGON	
10. MEC SHIP BREAKING SERVICE	THILAWAR, THAN NYIN TSP	
11. MEC DISPOSABLE SYRINGE FACTORY	FACTORIES DEPT, MEC HEAD OFFICE, SHWEDAGON PAGODA ROAD, DAGON TSP, YANGON	
12. GYPSUM MINE	THIBAW	