

ClientAlert

International Trade

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EU updates Burma/Myanmar sanctions



I. Introduction

To keep the EU's existing sanctions measures against Burma/Myanmar up to date, the European Commission has published updated designated parties lists in **Commission Implementing Regulation 891/2011**.¹ These updated lists – specifying enterprises in Burma/Myanmar in certain industry sectors to which certain financing, financial assistance and investment may not be extended and parties associated with the Government of Burma/Myanmar whose assets are frozen – entered into effect EU-wide on the date of their publication (i.e. 7 September 2011), thereby amending the EU's framework Regulation imposing Burma/Myanmar sanctions.

II. Background

The main framework of EU-wide rules and restrictions which currently apply under the current EU regime for economic sanctions against Burma/Myanmar is contained in **Council Regulation 194/2008**.² This Regulation entered into effect on 10 March 2008 to renew and strengthen the existing EU sanctions regime against Burma/Myanmar which the EU has autonomously (as no sanctions measures currently exist at United Nations level) kept in place since 1996. The EU's framework Burma/Myanmar Sanctions Regulation has since then been amended on several occasions, mainly to update the lists of designated persons and entities.

The underlying aim of the EU's sanctions against Burma/Myanmar is to impose restrictive trade and economic measures on the military regime and its affiliates, along with particular sectors which are considered to provide sources of revenue for these parties. Thus, Regulation 194/2008 imposes a variety of restrictions in relation to the following broad areas:

- **supply of certain specified goods and technology to** Burma/Myanmar (relating to arms and military equipment, internal repression, timber processing and mining and/or processing of coal, metals and gems) as well as **sourcing of certain goods from**

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¹ [Commission Implementing Regulation \(EU\) No 891/2011](#) of 1 September 2011 amending Council Regulation (EC) No 194/2008 renewing and strengthening the restrictive measures in respect of Burma/Myanmar, [2011] OJ L 230/1. This was adopted pursuant to [Council Decision 2011/504/CFSP](#) of 16 August 2011 [2011] OJ L 212/1.

² [Council Regulation \(EC\) No 194/2008](#) of 25 February 2008 renewing and strengthening the restrictive measures in respect of Burma/Myanmar and repealing Regulation (EC) No 817/2006, [2008] L 66/1, as amended (hereinafter "Regulation 194/2008"). This Regulation has been amended on several occasions and the latest consolidated version from 19 April 2011 (which does not include the amendments introduced by Regulation 891/2011) can be found here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2008R0194:20110419:EN:PDF>.

Burma/Myanmar (i.e. listed wood products, coal, metals and gems);³

- **provision of financial or technical assistance** in relation to military or internal repression activities, certain specified goods (listed wood products, coal, metals and gems) and/or to specified companies in Burma/Myanmar (involved in timber processing and mining and/or processing of coal, metals and gems) and their affiliates;⁴
- **directly or indirectly making funds or economic resources available to designated parties** (and their agents and subsidiaries) affiliated with the military regime whose assets are frozen;⁵ and
- **financing of or investment in listed enterprises** owned or controlled by the military regime or active in certain specific industry sectors such as timber processing and mining and/or processing of coal, metals and gems (and their subsidiaries and agents).⁶

Consistent with the normal principles of EU sanctions regimes, the EU's Burma/Myanmar sanctions measures apply to **EU territory** (including its airspace), **nationals of EU Member States** (including those located outside the EU) and **vessels and aircraft under Member State jurisdiction**.⁷ They also apply to **companies incorporated or doing business in a Member State**, which means that even non-EU companies could be covered depending on the particular circumstances under which they perform business activities in the EU and how they are connected to any restricted Burma/Myanmar-related activities.

III. Updated designated parties lists introduced by Regulation 891/2011

The updated designated parties lists introduced by Regulation 891/2011 replace the old versions of **Annexes V and VI** of Regulation 194/2008 as of 7 September 2011. These lists concern the following:

- **Annex V** lists certain enterprises in Burma/Myanmar engaged in timber processing, mining of coal and metals and mining and processing of gems (and their affiliates, subsidiaries and agents) to which **specified financing, financial assistance and investment may not be extended**; and
- **Annex VI** lists the natural or legal persons, entities or bodies affiliated with the Government of Burma/Myanmar **whose assets are frozen** and, as a result, for whose benefit no funds or economic resources may be directly or indirectly made available.

The amendments to the relevant Annexes affected by Regulation 891/2011 involve not only removal but also addition of designated parties, so parties subject to EU jurisdiction which have business dealings in Burma/Myanmar should carefully review the updated lists⁸ to ensure that they do not feature parties with which they directly or indirectly do business.

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³ See Articles 2, 4, 5 of Regulation 194/2008 and Article 1 of Council Decision 2010/232/CFSP, as amended. The restricted products which may not be supplied **to** Burma/Myanmar – unless a Member State license is obtained first in the case of products relating to timber processing and mining and processing of coal, metals and gems – are listed in **Annexes II and III** of Regulation 194/2008. The restricted products which may not be exported **from** Burma/Myanmar (unless specified exceptions relating to humanitarian aid apply) are listed in **Annex I** of Regulation 194/2008.

⁴ See Articles 7-8 of Regulation 194/2008. The restrictions on technical assistance relates to military activities and the products listed in **Annexes II and III** of Regulation 194/2008 (i.e. internal repression and timber processing and mining or processing of coal, metals and gems, respectively) and connected industries. The restrictions on financing and financial assistance relate in addition to military activities and internal repression equipment listed in **Annex II** to specific companies listed in **Annex V** when involving the products listed in **Annex III** of Regulation 194/2008.

⁵ See Article 11 of Regulation 194/2008. The designated parties whose assets are frozen are listed in **Annex VI** of Regulation 194/2008.

⁶ See Article 15 of Regulation 194/2008. The government-related or specified companies to which certain financing or investment may not be extended are listed in **Annexes V and VII** of Regulation 194/2008.

⁷ See Article 21 of Regulation 194/2008.

⁸ Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:230:0001:0066:EN:PDF>