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

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

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1853/2004. (See end of Document for details)*

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,

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:

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(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.[(5)]

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

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1853/2004. (See end of Document for details)*

ANNEX

ANNEX IVst of Burmese State-owned enterprises referred to in article 8 (a)NameAddressName of DirectorI. UNION OF MYANMAR ECONOMIC HOLDING LTDUNION OF MYANMAR ECONOMIC HOLDING LTD
MAJ-GEN WIN HLAING, MANAGING DIRECTORA. MANUFACTURING1.
MYANMAR RUBY ENTERPRISE
2.
MYANMAR IMPERIAL JADE CO. LTD
3.
MYANMAR RUBBER WOOD CO. LTD
4.
MYANMAR PINEAPPLE JUICE PRODUCTION
5.
MYAWADDY CLEAN DRINKING WATER SERVICE
6.
SIN MIN (KING ELEPHANTS) CEMENT FACTORY (KYAUKSE)
COL MAUNG MAUNG AYE, MANAGING DIRECTOR7.
TAILORING SHOP SERVICE
8.
NGWE PIN LE (SILVER SEA) LIVESTOCK BREEDING AND FISHERY CO.
9.
GRANITE TILE FACTORY (KYAIKTO)
10.
SOAP FACTORY (PAUNG)
B. TRADING1.
MYAWADDY TRADING LTD
COL MYINT AUNG, MANAGING DIRECTORC. SERVICES1.
MYAWADDY BANK LTD
BRIG-GEN WIN HLAING AND U TUN KYI, MANAGING DIRECTORS2.
BANDOOLA TRANSPORTATION CO. LTD
AND/OR
COL MYO MYINT, MANAGING DIRECTOR3.
MYAWADDY TRAVEL SERVICES
4.
NAWADAY HOTEL AND TRAVEL SERVICES
5.
MYAWADDY AGRICULTURE SERVICES
6.
MYANMAR AR (POWER) CONSTRUCTION SERVICES
JOINT VENTURES AND SUBSIDIARIESA. MANUFACTURING1.
MYANMAR SEGAL INTERNATIONAL LTD
U BE AUNG, MANAGER2.
MYANMAR DAEWOO INTERNATIONAL
3.
ROTHMAN OF PALL MALL MYANMAR PRIVATE LTD
4.
MYANMAR BREWERY LTD
RETD LT-COL MAUNG MAUNG AYE, CHAIRMAN5.
MYANMAR POSCO STEEL CO. LTD
6.
MYANMAR NOUVEAU STEEL CO. LTD
7.