

Burma/Myanmar: The Suspension of EU Sanctions “A New Chapter in Trade and Investment”

The European Council on the 14 May adopted Regulation (EU) No 409/2012 that will give full legal effect to the suspension of EU sanctions against Burma/Myanmar. EU High Representative for Foreign Affairs and Security Policy has welcomed the announcement as opening “*a new chapter*” in the EU’s trade and investment relationship with the country.

The suspension of EU restrictions follows agreement by European ministers, at the Foreign Affairs Council on 23 April 2012, to re-open trade and investment across a range of sectors including logging, timber processing, and mining of precious stones. Only the embargo on arms and equipment that can be used for internal repression will remain in force in until 30 April 2013. Going forward it will be interesting to see the extent to which the U.S. Government follows the move by the EU to ease restrictions.

Impact of the EU Suspension

With effect from 15 May 2012, until 30 April 2012, all restrictive measures in respect of Burma/Myanmar – except the arms embargo and the embargo on equipment which might be used for internal repression – are suspended. The suspension of restrictions applies to the import and export, financing and participation in certain extractive industries.

In addition, the suspension of the freeze on funds and economic resources of individuals and entities subject to the asset-freezing provisions effectively allows for the release without prior authorisation of previously frozen assets.

EU Sanctions Framework

Restrictive measures were originally introduced in respect of Burma/Myanmar in 1996. Council Regulation (EC) 194/2008 set the existing framework for certain measures, including restrictions on certain imports from and exports to Burma/Myanmar, a freezing of the funds and economic resources of certain individuals and entities and restrictions on the financing of certain enterprises.

More recently, on 26 April 2010, the Council adopted Decision 2010/232/CFSP renewing restrictive measures against Burma/Myanmar in response to the lack of improvement in human rights and the absence of substantive progress towards democracy. It included an arms embargo and an embargo on the sale, supply, transfer or export of relevant equipment and technology destined for

enterprises in Burma/Myanmar engaged in the following industries:

- Logging and timber processing.
- Mining of gold, tin, iron, copper, tungsten, silver, coal, lead, manganese, nickel and zinc.
- Mining and processing of precious and semi-precious stones, including diamonds, rubies, sapphires, jade and emeralds.

The measures also prohibited the purchase, import or transport from Burma/Myanmar into the EU of any products produced by these industries and prohibited the granting of any financial loan or credit to, the participation in or acquisition of, and the creation of a joint venture with the enterprises in Burma/Myanmar engaged in the above-mentioned industries or enterprises owned or controlled by the regime or by persons or entities associated with the regime.

How Dechert Can Help You?

Dechert's Trade and EU Government Affairs Practice regularly works with corporate and financial institutions on the application of international sanctions measures. We provide an experienced partner able to offer sound commercially focused advice in relation to specific transactions, or wider compliance programming, including:

- Knowledge of the development, implementation, interpretation and legal and practical implications of economic sanctions and trade embargoes applied by the United Nations European Union, United States and Individual EU Member States.
- Designing compliance programmes tailored to individual needs, to minimise compliance risks, as well as reviewing existing company procedures, conducting internal audits and establishing improved compliance plans.
- Advising on jurisdictional issues associated with the administration of economic sanctions, including potential extraterritorial aspects of export, re-export, investment and transactional controls.
- Preparing and negotiating sanctions compliance provisions in contracts, purchase orders, distributor agreements, subcontracts, and supply arrangements and related

representations and warranties in connection with mergers, acquisitions and joint ventures.

- Assisting with licence applications and obtaining authorisations in relation to regulatory exemptions and the interpretation of limitations in sanctions provisions.
- Investigating potential violations, responding to enforcement inquiries and representing clients before European and U.S. regulatory and enforcement agencies in connection with voluntary disclosures, enforcement and criminal and civil (administrative) investigations.
- Advising persons and entities which have been targeted under EU and US lists of "designated" entities with regards to their legal rights and obligations and wider public relations considerations.
- Conducting trade embargo and economic sanctions due diligence in connection with exports and reexports, distributor/supply agreements, mergers, acquisitions and joint ventures.
- Counselling clients with respect to their exposure for sanctions violations committed by third parties and potential courses of action to protect their business interests.

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Our EU Trade and Government Relations team advises on all aspects of trade law and policy, including sanctions, export control, WTO matters, anti-dumping, customs law and trade agreements. We bring together international trade lawyers and practitioners with political advisors to offer a unique blend of legal and strategic trade advice. We have wide ranging experience in advising European, US and other companies and financial institutions on transactions involving countries, entities and individuals subject to sanctions regimes. We draw on the first hand experience of ex regulators to provide legal advice and minimise corporate and personal exposure to enforcement proceedings.

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