

Council Regulation (EC) No 817/2006 of 29 May 2006  
renewing the restrictive measures in respect of Burma/  
Myanmar and repealing Regulation (EC) No 798/2004 (repealed)

*Article 1*

For the purposes of this Regulation, the following definitions shall apply:

1. 'technical assistance' means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services; technical assistance shall include verbal forms of assistance;
2. 'funds' means financial assets and benefits of every kind, including but not limited to:
  - (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
  - (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
  - (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
  - (d) interest, dividends or other income on or value accruing from or generated by assets;
  - (e) credit, right of set-off, guarantees, performance bonds or other financial commitments;
  - (f) letters of credit, bills of lading, bills of sale;
  - (g) documents evidencing an interest in funds or financial resources;
3. 'freezing of funds' means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management;
4. 'economic resources' means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services;
5. 'freezing of economic resources' means preventing their use to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them;
6. 'territory of the Community' means the territories of the Member States to which the Treaty is applicable, under the conditions laid down in the Treaty.

*Article 2*

It shall be prohibited:

- (a) to provide technical assistance related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, directly or indirectly to any natural or legal person, entity or body in, or for use in Burma/Myanmar;
- (b) to provide financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance for any sale, supply, transfer or export of arms and related materiel, directly or indirectly to any person, entity or body in, or for use in Burma/Myanmar;
- (c) to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in points (a) or (b).

### *Article 3*

It shall be prohibited:

- (a) to sell, supply, transfer or export, directly or indirectly, equipment which might be used for internal repression as listed in Annex I, whether or not originating in the Community, to any natural or legal person, entity or body in, or for use in Burma/Myanmar;
- (b) to provide technical assistance related to the equipment referred to in point (a), directly or indirectly to any natural or legal person, entity or body in, or for use in Burma/Myanmar;
- (c) to provide financing or financial assistance related to the equipment referred to at point (a), directly or indirectly to any natural or legal person, entity or body in, or for use in Burma/Myanmar;
- (d) to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in points (a), (b) or (c).

### *Article 4*

1 By way of derogation from Articles 2 and 3, the competent authorities of Member States as listed in Annex II may authorise, under such conditions as they deem appropriate:

- a the provision of financing and financial assistance and technical assistance related to:
  - (i) non-lethal military equipment intended solely for humanitarian or protective use, or for institution-building programmes of the United Nations, the European Union and the Community;
  - (ii) material intended for European Union and United Nations crisis-management operations;
- b the sale, supply, transfer or export of equipment which might be used for internal repression, intended solely for humanitarian or protective use, or for institution-building programmes of the United Nations, the European Union and the Community, or for European Union and United Nations crisis-management operations;
- c the sale, supply, transfer or export of de-mining equipment and material for use in de-mining operations;
- d the provision of financing and financial assistance related to equipment or to programmes and operations as referred to in points (b) and (c);
- e the provision of technical assistance related to equipment or to programmes and operations as referred to in points (b) and (c).

2 Authorisations referred to in paragraph 1 may be granted only prior to the activity for which they are requested.

#### *Article 5*

Articles 2 and 3 shall not apply to protective clothing, including flak jackets and military helmets, temporarily exported to Burma/Myanmar by United Nations personnel, personnel of the European Union, the Community or its Member States, representatives of the media and humanitarian and development workers and associated personnel for their personal use only.

#### *Article 6*

1 All funds and economic resources belonging to, owned, held or controlled by the individual members of the Government of Burma/Myanmar and to the natural or legal persons, entities or bodies associated with them as listed in Annex III shall be frozen.

2 No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies listed in Annex III.

3 The participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to at paragraphs 1 and 2 shall be prohibited.

#### *Article 7*

1 The competent authority of a Member States as listed in Annex II may authorise the release of certain frozen funds or economic resources or the making available of certain funds or economic resources, under such conditions as it deems appropriate, after having determined that the funds or economic resources concerned are:

- a necessary to satisfy the basic needs of persons listed in Annex III and their dependent family members, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
- b intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;
- c intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources;
- d necessary for extraordinary expenses, provided that the relevant competent authority has notified all other competent authorities and the Commission, of the grounds on which it considers that a specific authorisation should be granted, at least two weeks before the authorisation.

The relevant competent authority shall inform the competent authorities of the other Member States and the Commission of any authorisation granted under this paragraph.

2 Article 6(2) shall not apply to the addition to frozen accounts of:

- (i) interest or other earnings on those accounts; or
- (ii) payments due under contracts, agreements or obligations that were concluded or arose before the date on which those accounts became subject to the provisions of Regulation (EC) No 1081/2000, Regulation (EC) No 798/2004 or this Regulation, whichever is the earlier,

provided that any such interest, other earnings and payments continue to be subject to Article 6(1).

### Article 8

1 Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy, natural and legal persons, entities and bodies shall:

- a supply immediately the competent authorities of the Member States listed in Annex II where they are resident or located with any information which would facilitate compliance with this Regulation, such as accounts and amounts frozen in accordance with Article 6, and shall forward such information, directly or through these competent authorities, to the Commission;
- b cooperate with the competent authorities listed in Annex II in any verification of this information.

2 Any additional information directly received by the Commission shall be made available to the competent authorities of the Member State concerned.

3 Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.

### Article 9

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 Provisions of paragraph 1(a) shall be without prejudice to the execution of an obligation arising from contracts or agreements concluded before 25 October 2004.

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 25 October 2004. The relevant competent authority, as listed in Annex II, and the Commission shall be informed before any such transaction takes place. The Commission shall inform the competent authorities of the other Member States.

### Article 10

The freezing of funds and economic resources or the refusal to make funds or economic resources available, carried out in good faith on the basis that such action is in accordance with this Regulation, shall not give rise to liability of any kind on the part of the natural or legal person or entity implementing it, or its directors or employees, unless it is proved that the funds and economic resources were frozen as result of negligence.

#### *Article 11*

The Commission and Member States shall immediately inform each other of the measures taken under this Regulation and shall supply each other with any other relevant information at their disposal in connection with this Regulation, in particular information in respect of violation and enforcement problems and judgements handed down by national courts.

#### *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 the Annexes I and II to Common Position 2006/318/CFSP.

#### *Article 13*

1 Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

2 Member States shall notify the Commission of those rules without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.

#### *Article 14*

This Regulation shall apply:

- (a) within the territory of the Community, including its airspace;
- (b) on board any aircraft or any vessel under the jurisdiction of a Member State;
- (c) to any person inside or outside the territory of the Community who is a national of a Member State;
- (d) to any legal person, entity or body which is incorporated or constituted under the law of a Member State;
- (e) to any legal person, entity or body in respect of any business done in whole or in part within the Community.

#### *Article 15*

Regulation (EC) No 798/2004 is hereby repealed.

#### *Article 16*

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.

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*Status: This is the original version (as it was originally adopted).*

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Done at Brussels, 29 May 2006.

*For the Council*

*The President*

M. BARTENSTEIN