

EXPLANATORY MEMORANDUM TO
THE EXPORT CONTROL (BURMA SANCTIONS) ORDER 2018
2018 No. 871

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for International Trade and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument provides for the enforcement of new, European Union-wide trade restrictions set out in Council Regulation (EU) 2018/647 of 26 April 2018 amending Regulation (EU) No 401/2013 of 2 May 2013 concerning restrictive measures in respect of Myanmar/Burma (the “2018 Regulation”). It also makes provision for the granting of licences permitting, in accordance with the regime, certain trade activities which would otherwise be prohibited by it.
- 2.2 This instrument also provides for the enforcement of new trade restrictions in the 2018 Regulation, consolidates trade restrictions enforced by the Export Control (Burma) Order 2013 (“the 2013 Order”) and revokes that Order.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is not subject to parliamentary procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the whole of the United Kingdom.
- 4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The EU initially imposed sanctions against Burma in 1990. In 1996, the EU adopted a Common Position on Burma which included a ban on the sale or transfer of arms and weapons expertise to the country, visa restrictions on members of the military regime, their families and allies, and a freeze on officials' overseas assets. All bilateral aid other than humanitarian assistance was suspended.

- 6.2 After troops violently suppressed anti-government protests in 2007, the sanctions were extended to include a ban on imports of gems, timbers and metals. They were further tightened in August 2009 when pro-democracy opposition leader Aung San Suu Kyi's house arrest was extended.
- 6.3 However, in 2010 Aung San Suu Kyi, who had been prevented from taking part in that year's elections, was released from house arrest. Reform followed, and the EU lifted its trade, economic and individual sanctions - except those on arms sales - in response to Myanmar's political reform programme. This change is reflected in Council Regulation (EU) No 401/2013, which followed Council Decision 2013/184/CFSP of 22 April 2013, and is enforced in the United Kingdom by the 2013 Order.
- 6.4 The 2018 Regulation was adopted by the Council of the European Union in response to widespread, systematic grave human rights violations committed by the Burmese military and security forces. The 2018 Order enforces new trade restrictions in this Regulation, consolidates trade restrictions enforced by the 2013 Order and revokes that Order.

7. Policy background

What is being done and why?

- 7.1 In February 2018, the European Council adopted conclusions condemning the widespread systematic human rights violations committed by the Burmese military and the failure of the Burmese Government and security forces to ensure security, rule of law and accountability in Rakhine, Kachin and Shan States.
- 7.2 This was followed, on 26 April 2018, by the EU's imposition of sanctions prohibiting the export to Burma of, amongst other things, dual-use goods, technology, software, and the provision of telecommunications, internet monitoring or interception services to Burma.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 None.

10. Consultation outcome

- 10.1 This instrument provides for the technical implementation of a directly applicable EU Regulation. No consultation was necessary.

11. Guidance

- 11.1 Guidance about sanctions against Burma is available on GOV.UK <https://www.gov.uk/guidance/arms-embargo-on-burma>

12. Impact

- 12.1 There is no significant impact on business, charities or voluntary bodies.

- 12.2 There is no impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because it provides for the technical implementation of a directly applicable EU Regulation.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 To minimise the impact of the requirements on small businesses, the 2018 Regulation is enforced by penalties that are only applied if a business deliberately breaches the sanctions set out in the Regulation, rather than by regulatory measures.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is for a review to be carried out within five years of it coming into force and every five years thereafter.
- 14.2 A statutory review clause is included in the 2018 Order.

15. Contact

- 15.1 Peter Monday at the Department for International Trade. Telephone: 0207 215 8810. Email: peter.monday@trade.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Edward Bell at the Department for International Trade can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Dr Liam Fox (Secretary of State) at the Department for International Trade can confirm that this Explanatory Memorandum meets the required standard.