

Alerts & Publications

Burma/Myanmar Opens for Business from the EU

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Following improving diplomatic relations between Europe and Burma/Myanmar, the EU Council has announced a one year suspension of the EU economic sanctions against the former military state, with the exception of the arms embargo which remains in place. The measure follows Burma/Myanmar's dramatic democratic reforms over the last year and the cessation of its direct military rule.

The decision to ease the sanctions against the regime was made during a meeting of EU foreign ministers in Luxembourg on 23 April 2012 and was published in the Council Conclusions on Burma/Myanmar in the 3159th Foreign Affairs Council Meeting in Luxembourg on the same day (the "**Conclusion**"). The Conclusion has been followed by Council Decision 2012/255/CFSP which was adopted on 26 April 2012 (the "**Decision**"). The EU is shortly expected to pass a Regulation implementing the Decision and giving legal effect to the suspension throughout the EU. The Conclusion and Decision followed a visit to Burma/Myanmar by British Prime Minister, David Cameron, on 13 April 2012; the first state visit to Burma/Myanmar by a western leader in decades, following which Mr. Cameron called for a suspension of the sanctions.

The suspension of economic sanctions is a significant step in opening up resource-rich Burma/Myanmar to investment from European companies. The suspension will be subject to ongoing review and the EU has made it clear that it expects Burma/Myanmar to continue taking steps towards democratisation if the suspension is to remain in place.

Notably, while the EU and the United States previously have maintained parallel trade and investment sanctions against Burma/Myanmar, the U.S. authorities have not yet eased the U.S. sanctions with respect to broad business activities. Secretary of State Hillary Clinton announced on 4 April 2012 that the United States would "[begin] the process of a targeted easing of our ban on the export of U.S. financial services and investment as part of a broader effort to help accelerate economic modernisation and political reform." On 17 April 2012, the U.S. Treasury Department issued a general license permitting certain financial transactions in support of the activities in Burma/Myanmar of humanitarian, religious, and other non-profit organisations. The Council Decision doubtless will accelerate the effort to implement the broader steps announced by Secretary Clinton.

Background

The EU has previously applied strict sanctions against the regime in Burma/Myanmar in response to its autocratic military rule (Council Regulation (EC) No 194/2008 and Council Decision 2010/232/CFSP). Specifically, in addition to the arms embargo, there had been a ban on the import of goods into Europe produced by Burma/Myanmar's logging and mining industries, a ban on the

export of goods that could be used in the logging and mining industries in Burma/Myanmar, a ban on providing financial support for activities in these industries, a ban on the export of equipment used for internal repression, a freezing of funds and economic resources of certain individuals and entities associated with the military regime and a prohibition on providing financial support to or expanding existing ventures with such persons and entities. These restrictive measures had applied to some 800 companies and almost 500 individuals associated with the military regime in Burma/Myanmar.

Recent steps taken by Burma/Myanmar towards democratic reform, including the holding of by-elections on 1 April 2012 in which pro-democracy campaigner Aung San Suu Kyi's National League for Democracy party won 42 contested seats in parliament, have proved significant enough for Europe to reconsider its existing relationship with the previously politically-isolated state. Other steps towards reform taken by Burma/Myanmar in recent weeks include the release of political prisoners and calling a ceasefire with opposing armed groups, all steps which were praised by the EU in its Conclusion.

The Suspension of Sanctions

The Decision amends Council Decision 2010/232/CFSP, suspending the restrictive measures that had previously been in place, with the exception of the arms embargo and the embargo on equipment which might be used for internal repression. The Decision is effective as of 26 April 2012 and shall apply until 30 April 2013.

The Conclusion explains that, at this stage, the suspension of the sanctions is only intended to be in place for a period of one year. The EU intends to constantly monitor the situation in Burma/Myanmar and the suspension of the sanctions will be subject to ongoing review.

The EU made clear in the Conclusion that its willingness to maintain the sanctions suspension is dependant on continuing reforms within Burma/Myanmar, specifically, “. . . the unconditional release of remaining political prisoners and the removal of all restrictions placed on those already released.” In this regard, the EU added that it “. . . looks forward to the end of conflict and to substantially improved access for humanitarian assistance, in particular for those affected by conflict in Kachin State and along the Eastern border, as well as to addressing the status and improving welfare of the Rohingyas.”

Co-operation Plans

The EU is taking other steps toward rebuilding a closer relationship with Burma/Myanmar. The EU will open an office in Yangon during the forthcoming visit by Catherine Ashton, the EU's High Representative for foreign policy, to Burma/Myanmar on 28 April 2012. Ashton has announced that the EU is prepared to offer €100 million in aid over the coming months. Furthermore, EU Development Ministers will meet in May to discuss future cooperation with Burma/Myanmar, funding from the EU for development in the country, the strengthening of the rule of law and human rights and the protection of the environment.

The importance of the private sector in solidifying this new relationship with Burma/Myanmar is highlighted in the Conclusion, which emphasises that private sector contributions in terms of trade and investment in Burma/Myanmar are vital for rebuilding Burma/Myanmar's economy.

Impact

The suspension of sanctions has been welcomed in political and commercial circles; however, uncertainty still exists about the longevity of the move. The EU's commitment to constantly monitor the situation in Burma/Myanmar means that the sanctions could potentially be re-imposed in the future, although the current rhetoric from the government in Burma/Myanmar regime itself is reassuring -- President Thein Sein recently stated that "there won't be any U-turn" in relation to the country's democratisation.

The suspension of EU sanctions in Burma/Myanmar potentially marks a new opportunity for private enterprise to enter the country; however, this is only the first step towards normalising the EU's relations with Burma/Myanmar. Just as the EU has stated that it will keep the situation under review, companies intending to invest in Burma/Myanmar will need to do the same. It will be important for persons subject to both EU and U.S. jurisdiction to remain vigilant about the current continued application of U.S. trade and investment sanctions, and any differences that may arise after the U.S. authorities in the future implement the easing of sanctions that have been announced.

A copy of Council Decision 2012/255/CFSP can be found [here](#).

A copy of U.S. Treasury Department General License No. 14-C issued on 17 April 2012 can be found [here](#).

A copy of the remarks made by Secretary of State Hillary Clinton on 4 April 2012 can be found [here](#).