

Council Regulation (EC) No 1081/2000 of 22 May 2000 prohibiting the sale, supply and export to Burma/Myanmar of equipment which might be used for internal repression or terrorism, and freezing the funds of certain persons related to important governmental

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 Common Position 2000/346/CFSP of 26 April 2000 extending and amending Common Position 96/635/CFSP on Burma/Myanmar (1),

Having regard to the proposal from the Commission,

Whereas:

(1) In view of continued severe and systematic violations of human rights by the Burmese authorities, and in particular continuing and intensified repression of civil and political rights, and the failure of those authorities to take steps towards democracy and reconciliation, Common Position 2000/346/CFSP provides that the restrictive measures applicable to Burma/Myanmar, as laid down in Common Position 96/635/CFSP (2) and 98/612/CFSP (3), should be expanded by means of, *inter alia*, a freezing of the funds of senior members of the State Peace and Development Council, Burmese authorities in the tourism sector, senior members of the military, the Government or the security forces who formulate, implement or benefit from policies that impede Burma/Myanmar's transition to democracy, and their families, and by a prohibition of sales, supplies and exports of equipment which might be used for internal repression or terrorism.

(2) These measures fall within the scope of the Treaty.

(3) Therefore, and with a view to avoiding distortion of competition, Community legislation is necessary for the implementation of the said measures as far as the territory of the Community is concerned. Such territory is deemed to encompass, for the purposes of this Regulation, all the territories of the Member States to which the Treaty is applicable, under the conditions laid down in that Treaty.

(4) The competent authorities of the Member States should, where necessary, be empowered to ensure compliance with the provisions of this Regulation.

(5) There is a need for the Commission and the Member States to inform each other of the measures taken under this Regulation and of other relevant information at their disposal in connection with this Regulation, without prejudice to existing obligations with regard to certain items concerned.

(6) It is desirable that it should be possible for sanctions for violations of this Regulation to be imposed after its entry into force,

HAS ADOPTED THIS REGULATION:

Article 1

It shall be prohibited, knowingly and intentionally, to sell, supply, export or ship, directly or indirectly, equipment listed in Annex I, whether or not originating in the Community, to any person or body in Burma/Myanmar or to any person or body for the purpose of any business carried on in, or operated from, the territory of Burma/Myanmar.

Article 2

1. All funds held outside the territory of Burma/Myanmar belonging to the senior members of the State Peace and Development Council, the Burmese authorities in the tourism sector, the senior members of the military, the Government or the security forces who formulate, implement or benefit from policies that impede Burma/Myanmar's transition to democracy, and their families, whose names are listed in Annex II, shall be frozen.

2. No funds shall be made available, directly or indirectly, to or for the benefit of the persons referred to in paragraph 1.

3. For the purpose of this Regulation:

- funds shall mean: financial assets and economic benefits of any kind, including, but not necessarily limited to, cash, cheques, claims on money, drafts, money orders and other payment instruments; deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, derivatives contracts; interest, dividends or other income on or value accruing from or generated by assets; credit, right of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export-financing;

- freezing of funds shall mean: preventing any move, transfer, alteration, use of 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 make possible the use of the funds, including portfolio management, except that any interest or income arising or any capital automatically repayable on maturity of any funds shall be paid into and held in a frozen account.

Article 3

Without prejudice to the Community rules concerning confidentiality and to the provisions of Article 284 of the Treaty, the competent authorities of the Member States shall have the power to require banks, other financial institutions, insurance companies, and other bodies or persons to provide all relevant information necessary for ensuring compliance with this Regulation.

Article 4

The Commission shall be empowered:

- to amend Annex II, taking into account decisions updating the Annex of Common Position 2000/346/CFSP,

- on the basis of information supplied by Member States, to amend data on competent authorities of the Member States listed in Annex III.

Article 5

The participation, knowingly and intentionally, in related activities the object or effect of which is, directly or indirectly, to promote the transactions or activities referred to in Article 1 or to circumvent the provisions of this Regulation shall be prohibited.

Article 6

The Commission and the Member States shall inform each other of the measures taken under this Regulation and supply each other with relevant information at their disposal in connection with this Regulation, in particular information received in accordance with Article 3, information in respect of violation and enforcement problems and judgments handed down by national courts.

Article 7

Each Member State shall determine the sanctions to be imposed where the provisions of this Regulation are infringed. Such sanctions shall be effective, proportionate and dissuasive.

Article 8

This Regulation shall apply:

- within the territory of the Community including its air space,

- on board any aircraft or any vessel under the jurisdiction of a Member State,

- to any person elsewhere who is a national of a Member State, and

- to any body which is incorporated or constituted under the law of a Member State.

Article 9

This Regulation shall enter into force on the day of its publication in the Official Journal of the European Communities.

This Regulation shall be reviewed by 29 October 2000.

This Regulation shall be binding in its entirety and directly applicable in all Member States.
Done at Brussels, 22 May 2000.

For the Council
The President
J. Gama

Source: Official Journal L 122 , 24 May 2000 p. 29

- (1) See page 1 of this Official Journal.
- (2) Official Journal, L 287, 8.11.1996, p. 1.
- (3) Official Journal L 291, 30.10.1998, p. 1.

ANNEX I

Equipment for internal repression or terrorism, envisaged by Article 1

The following list does not include items which have been specially designed or modified for military use and are covered by the arms embargo confirmed by Common Position 96/635/CFSP.

Helmets providing ballistic protection, anti-riot helmets, anti-riot shields and ballistic shields and specially designed components therefor.

Specially designed fingerprint equipment.

Power controlled searchlights.

Construction equipment provided with ballistic protection.

Hunting knives.

Specially designed production equipment to make shotguns.

Ammunition hand-loading equipment.

Communications intercept devices.

Solid-state optical detectors.

Image-intensifier tubes.

Telescopic weapon sights.

Smooth-bore weapons and related ammunition, other than those specially designed for military use, and specially designed components therefor; except:

1. signal pistols;

2. air- or cartridge-powered guns designed as industrial tools or humane animal stunners.

Simulators for training in the use of firearms and specially designed or modified components and accessories therefor.

Bombs and grenades, other than those specially designed for military use, and specially designed components therefor.

Body armour, other than those manufactured to military standards or specifications, and specially designed components therefor.

All-wheel-drive utility vehicles capable of off-road use that have been manufactured or fitted with ballistic protection, and profiled armour for such vehicles.

Water cannon and specially designed or modified components therefor.

Vehicles equipped with water cannon.

Vehicles specially designed or modified to be electrified to repel boarders and components therefor specially designed or modified for that purpose.

Acoustic devices represented by the manufacturer or supplier as suitable for riot-control purposes, and specially designed components therefor.

Leg-irons, gang-chains, shackles and electric-shock belts, specially designed for restraining human beings; except:

- handcuffs for which the maximum overall dimension including chain does not exceed 240 mm when locked.

Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an incapacitating substance (such as tear gas or pepper sprays), and specially designed components therefor.

Portable devices designed or modified for the purpose of riot control or self-protection by the

administration of an electric shock (including electric-shocks batons, electric shock shields, stun guns and electric shock dart guns (tasers)) and components therefor specially designed or modified for that purpose.

Electronic equipment capable of detecting concealed explosives and specially designed components therefor; except:

- TV or X-ray inspection equipment.

Electronic jamming equipment specially designed to prevent the detonation by radio remote control of improvised devices and specially designed components therefor.

Equipment and devices specially designed to initiate explosions by electrical or non-electrical means, including firing sets, detonators, igniters, boosters and detonating cord, and specially designed components therefor; except:

- those specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of which is not the creation of explosions (e.g., car air-bag inflaters, electric-surge arresters of fire sprinkler actuators).

Equipment and devices designed for explosive ordnance disposal; except:

1. bomb blankets;
2. containers designed for holding objects known to be, or suspected of being improvised explosive devices.

Night vision and thermal imaging equipment and image intensifier tubes or solid state sensors therefor.

Software specially designed and technology required for all listed items.

Linear cutting explosive charges.

Explosives and related substances as follows:

- amatol,
- nitrocellulose (containing more than 12,5 % nitrogen),
- nitroglycol,
- pentaerythritol tetranitrate (PETN),
- picryl chloride,
- trinitrophenylmethylnitramine (tetryl),
- 2, 4, 6-trinitrotoluene (TNT).

Software specially designed and technology required for all listed items.