



Myanmar: Open For Business With the EU?

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Introduction

On 14 May 2012, the Council of the European Union adopted a regulation giving full legal effect to a 12-month suspension of EU trade sanctions against Myanmar. The suspension is scheduled to remain in place until 30 April 2013.

On the granting of the suspension, EU High Representative for Foreign Affairs and Security Policy, Catherine Ashton, said: "The European Union welcomes the remarkable changes in Burma/Myanmar and has decided to open a new chapter in our relations. Now that the sanctions will be effectively suspended, we encourage trade and investment in the country."

The suspension is widely acknowledged to have been made in response to Myanmar's departure from authoritarian rule, which started in early 2011. EU ministers acknowledged that Myanmar's government had taken a number of steps toward establishing a more open society such as releasing political prisoners (including pro-democracy leader Aung San Suu Kyi), easing media censorship and reforming employment law.

The announcement of the suspension came as Myanmar agreed to trade deals with the United States, Japan and Australia.

Trade Sanctions Suspended

Prior to the suspension, trade restrictions against Myanmar were imposed under Council Regulation (EC) No 1081/2000 of 22 May 2000 (Regulation), which imposed trade and economic sanctions, including a prohibition on the import/export of specific goods (including timber, high value metals and precious stones) to and from Myanmar and on the provision of specified services to Myanmar. In addition, the Regulation (as subsequently amended) imposed individual sanctions against more than 800 companies and 500 individuals including asset freezes and travel bans. Further restrictions were also placed on financing certain state-owned enterprises and enterprises in certain extractive industries.

The suspension of these measures will allow development money to enter the country and investment into key sectors of the economy – in particular, the mining and logging industries. Exports from these industries will also be allowed into the EU.

It is hoped that by placing a time limit on the suspension, the EU can encourage further social change and political reforms to continue taking place in the country in the months ahead.

Arms Embargo Remains in Force

Despite the suspension of trade sanctions, the EU arms embargo against Myanmar will remain in place. The arms embargo was first introduced by the EU in 1990 and includes restrictions on the trade in weapons and ammunition, weapon and non-weapon platforms, and ancillary equipment. It also covers spare parts, repairs, maintenance and the transfer of military technology. In the UK, the legislation implementing the arms embargo is contained in the Export Control Order 2008 and subsequent ancillary statutory instruments. The UK interprets the arms embargo as including all goods and items listed on the UK Military List, which forms part of the UK Strategic Export Control Lists.

Trade and Investment in Myanmar

It seems certain that the suspension of trade sanctions will offer development opportunities for European investors in Myanmar's underdeveloped oil and gas, tourism, timber, banking and telecommunications industries. Indeed, investors will be keen to be first in the queue to take advantage of these newly accessible markets.

However, investors should still approach dealings with Myanmar with a degree of caution because, whilst EU ministers have pledged support for development and investment in Myanmar, they have also warned that the EU will "monitor closely the situation on the ground and keep its measures under constant review." Accordingly, investors would be well-advised to remain aware of the current temporary status of the suspension and to seek counsel on questions of compliance with those sanctions that remain in force.

If you have questions or comments about Myanmar, please contact your primary Squire Sanders lawyer.

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