

Client Alert

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For further information please contact

London Trade Group

Ross Denton, Partner

+44 (0) 20 7919 1978

ross.denton@bakermckenzie.com

Sunny Mann, Partner

+44 (0) 20 7919 1397

sunny.mann@bakermckenzie.com

Tristan Grimmer, Senior Associate

+44 (0) 20 7919 1476

tristan.grimmer@bakermckenzie.com

[bakermckenzie.com](mailto:tristan.grimmer@bakermckenzie.com)

Jennifer Revis, Senior Associate

+44 (0) 20 7919 1381

jennifer.revis@bakermckenzie.com

James Robinson, Senior Associate

+44 (0) 20 7919 1631

james.robinson@bakermckenzie.com

[bakermckenzie.com](mailto:james.robinson@bakermckenzie.com)

Ben Smith, Associate

+44 (0) 20 7919 1088

ben.smith@bakermckenzie.com

Mayuko Roald, Associate

+44 (0) 20 7919 1080

mayuko.roald@bakermckenzie.com

Sven Bates, Associate

+44 (0) 20 7919 1173

sven.bates@bakermckenzie.com

Matthew Butter, Associate

+44 (0) 20 7919 1006

matthew.butter@bakermckenzie.com

[bakermckenzie.com](mailto:matthew.butter@bakermckenzie.com)

Emma Bye, Associate

+44 (0) 20 7919 1390

emma.bye@bakermckenzie.com

EU Lifts Sanctions on Myanmar/Burma and Considers Further Measures to Promote Trade

In May 2012, the European Union announced that it was temporarily suspending all sanctions measures on Myanmar/Burma until 30 April 2013 with the exception of an arms embargo and controls on the supply of items that might be used for internal repression purposes. The EU entered into a dialogue with the Myanmar Government and set out to monitor developments on the ground, with a view to further easing sanctions measures should the political situation continue to improve. These developments were outlined in our [May 2012 client alert](#).

Twelve months on, the EU has agreed to formally lift its sanctions regime on Myanmar, again with the exception of the arms embargo and internal repression controls. The EU will continue to monitor political developments in Myanmar and has stated that it will reinstate sanctions measures at short notice should it decide that the EU's objectives in Myanmar are not being met. Nonetheless, the formal lifting (as opposed to mere suspension) of the sanctions measures represents a significant step forward in diplomatic relations between the EU and Myanmar. A number of further measures are also being considered that would significantly promote business between the two markets.

The Council Decision

The decision to revoke EU sanctions measures is published in [Council Decision 2013/184/CFSP](#) of 22 April 2013 (the "Decision"). Further implementing legislation will be required, by way of a Council Regulation, to give effect to the Decision. The Decision applies until 30 April 2014 and shall be kept under review and renewed or amended should the EU deem it appropriate to do so.

Continuing Restrictive Measures

EU sanctions measures in place prior to May 2012, including designated person controls and various investment controls, have been formally removed. An arms embargo and controls on items with internal repression application remain in force as follows:

- Arms embargo. The existing arms embargo continues to prohibit the sale, supply, transfer or export of arms and related material of any type, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, as well as spare parts for such equipment, to Myanmar by EU nationals or from the EU (including from any EU vessel or aircraft). In practice, the arms embargo applies to items listed in the EU's [Common Military List](#), as well as any applicable Member State military lists (e.g., the [UK Military List](#)). In addition to items used in warfare, military controls extend to cover a number of military grade items with broader industrial application, and

Laura Philippou, Associate
+44 (0) 20 7919 1042
laura.philippou@bakermckenzie.com

Alexandra Demper, Associate
+44 (0) 20 7919 1075
alexandra.demper@bakermckenzie.com

Myanmar Centre, Bangkok

Pornapa L. Thaicharoen, Partner
+66 (0)2 636 2000 p4555
pornapa.thaicharoen@bakermckenzie.com

Clive Cook, Consultant
+66 (0)2 636 2000 p6003
clive.cook@bakermckenzie.com

Saw Yu Win, Consultant
+66 (0)2 636 2000 p6001
sawyu.win@bakermckenzie.com

Amsterdam Trade Group

Jasper Helder, Partner
+31 20 551 7579
jasper.helder@bakermckenzie.com

Chiara Klau, Senior Associate
+31 20 551 7812
chiara.klau@bakermckenzie.com

Barcelona Trade Group

Valeria Enrich, Partner
+34 93 20 608 44
valeria.enrich@bakermckenzie.com

Frankfurt Trade Group

Ulrich Ellinghaus, Partner
+49 (0) 69 29 908 251
ulrich.ellinghaus@bakermckenzie.com

Julia Pfeil, Associate
+49 (0) 69 29 908 513
julia.pfeil@bakermckenzie.com

Stockholm Trade Group

Mattias Hedwall, Partner
+468 566 177 33
mattias.hedwall@bakermckenzie.com

Zurich Trade Group

Philippe Reich, Partner
+41 44 384 1382
philippe.reich@bakermckenzie.com

in particular items used by energy and extractive sectors (for example, military-specification explosives, detonators, charges, igniters and gyros).

- Internal repression controls. It remains prohibited to sell, supply, transfer or export equipment that might be used for internal repression purposes to Myanmar by EU nationals or from the EU (including from any EU vessel or aircraft). These controls apply to the equipment specifically listed in Annex II to [Council Regulation \(EC\) No 194/2008](#) (as amended). Again, the list includes not only items with clear internal repression application, such as riot control gear, but also a number of items that are relevant to the energy sector such as igniters, detonators, charges and detonating cords.
- Provision of ancillary services. It also remains prohibited to provide certain ancillary services in relation to the above, including technical assistance, brokering services, financing or financial assistance.

Further steps expected to enhance international trade with Myanmar

The Decision recognises that the EU has opened a new chapter in its relations with Myanmar. In its effort to promote responsible trade and investment between the EU and Myanmar, several further initiatives are being considered:

- Preferential market access. The EU is considering whether to reinstate Myanmar's access to the EU's Generalised System of Preferences ("GSP"), which provides preferential access to the EU market and would allow most Myanmar origin goods to be imported into the EU customs territory duty free. Myanmar's access to the GSP was withdrawn in 1997 following the initial imposition of EU sanctions measures on Myanmar in 1996. The issue is currently scheduled for consideration by the European Parliament on 20 May 2013. In parallel, the US Government has also announced the first steps in considering whether to grant Myanmar access to the US GSP programme and has scheduled a review of the issue over the coming months.
- Proposed bilateral investment agreement. The EU has announced that it plans to explore the feasibility of a bilateral investment agreement between the EU and Myanmar.
- EU Task Force. The EU intends to create a Task Force later this year to encourage closer cooperation between the EU and Myanmar in order to support the country's political, economic and social transition.

Recommended Actions

There are undoubted economic benefits that arise from the EU's decision to ease its sanctions regime against Myanmar and many companies are now looking to Myanmar as an additional investment base in Southeast Asia. At the same time, it should be noted that the Decision clearly states that the EU will constantly review the adequacy of its Decision in light of the situation in Myanmar. This could result in broader sanctions being reintroduced swiftly and at short notice if the reforms do not continue and the EU finds the situation has deteriorated.

Washington DC Outbound Trade Group

Edward E. Dyson, Partner
+1 202 452 7004
edward.dyson@bakermckenzie.com

Nicholas F. Coward, Partner
+1 202 452 7021
nicholas.coward@bakermckenzie.com

Janet K. Kim, Partner
+1 202 835 1653
janet.k.kim@bakermckenzie.com

Sylwia A. Lis, Partner
+1 202 835 6147
sylwia.lis@bakermckenzie.com

Jonathan C. Poling, Partner
+1 202 835 6170
jonathan.poling@bakermckenzie.com

Alison Stafford Powell, Of Counsel
+1 202 835 4251
alison.stafford-powell@bakermckenzie.com

Steven F. Hill, Associate
+1 202 835 6121
steven.hill@bakermckenzie.com

Kerry B. Contini, Associate
+1 202 835 6100
kerry.contini@bakermckenzie.com

Lise S. Test, Associate
+1 202 835 6131
lise.test@bakermckenzie.com

Alexandre Lamy, Associate
+1 202 835 1862
alexandre.lamy@bakermckenzie.com

Maria van Wagenberg, Associate
+1 202 835 6118
maria.vanwagenberg@bakermckenzie.com

Joseph A. Schoorl, Associate
+1 202 835 1647
joseph.schoorl@bakermckenzie.com

Accordingly, prior to engaging in business in Myanmar and/or with related counterparties, businesses are advised to exercise caution, notably:

- by conducting adequate due diligence for the purposes of their broader compliance obligations, (for instance, under anti-bribery and corruption laws); and
- by ensuring appropriate contractual clauses are in place to provide sufficient protection against the risk of the EU reinstating sanctions measures at short notice.

If you have any queries about how these changes might affect your company or if you require advice on any specific transactions or plans, please do not hesitate to contact a member of Baker & McKenzie's International Trade Practice Group.