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# Canada Gazette

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SPECIAL ECONOMIC MEASURES ACT

## Special Economic Measures (Burma) Regulations

P.C. 2007-1913 December 13, 2007

Whereas the Governor in Council is of the opinion that the situation in Burma constitutes a grave breach of international peace and security that has resulted or is likely to result in a serious international crisis;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Foreign Affairs, pursuant to subsections 4(1) to (3) of the *Special Economic Measures Act* ([see footnote a](#)), hereby makes the annexed *Special Economic Measures (Burma) Regulations*.

### SPECIAL ECONOMIC MEASURES (BURMA) REGULATIONS

#### INTERPRETATION

"Burma"  
« *Birmanie* »

1. The following definitions apply in these Regulations.

"Burma" means Myanmar, and includes  
(a) any political subdivision of Myanmar;  
(b) the government, and any department of Myanmar or of a political subdivision of Myanmar; and  
(c) any agency of Myanmar or of a political subdivision of Myanmar.

"controlling interest"  
« *intérêts majoritaires* »

"controlling interest" means an ownership interest of more than 50%.

"designated person"  
« *personne désignée* »

"designated person" means a person whose name is listed on the schedule in accordance with section 2.

"Minister"  
« *ministre* »

"Minister" means the Minister of Foreign Affairs.

"pension"  
« *pension* »

"pension" means a benefit paid under the *Old Age Security Act*, the *Canada Pension Plan* or an *Act respecting the Quebec Pension Plan*, R.S.Q. c. R-9, any superannuation, pension or benefit paid under or in respect of any retirement savings plan or under any retirement plan, any amount paid under or in respect of the *Garnishment, Attachment and Pension Diversion Act* or the *Pension Benefits Division Act*, and any other payment made in respect of disability.

## LIST

Designated person	<p><b>2.</b> A person whose name is listed in the schedule is a person in respect of whom the Governor in Council, on the recommendation of the Minister, is satisfied that there are reasonable grounds to believe is</p> <p>(a) a former or current senior official of the Government of Burma, the State Peace and Development Council of Burma, the Union Solidarity and Development Association of Burma or a successor to any of the foregoing;</p> <p>(b) an associate or family member of a person set out in paragraph (a);</p> <p>(c) an entity owned, controlled or acting on behalf of a person set out in paragraphs (a) or (b); or</p> <p>(d) an entity owned or controlled or acting on behalf of the Government of Burma, the State Peace and Development Council of Burma, the Union Solidarity and Development Association of Burma or a successor to any of the foregoing.</p>
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## PROHIBITIONS

Export	<p><b>3.</b> Subject to section 18, no person in Canada shall export, sell, supply or ship any goods, wherever situated, to Burma, to any person in Burma or to any person for the purposes of any business carried on in or operated from Burma.</p>
Import	<p><b>4.</b> Subject to section 18, no person in Canada shall import, purchase, acquire, ship or tranship any goods that are exported, supplied or shipped from Burma after the date of the coming into force of these Regulations, whether the goods originated in Burma or elsewhere.</p>
Assets Freeze	<p><b>5.</b> No person in Canada and no Canadian outside Canada shall</p> <p>(a) deal, directly or indirectly, in any property of a designated person, including funds derived or generated from property that is owned or controlled, directly or indirectly, by that person;</p> <p>(b) enter into or facilitate, directly or indirectly, any financial transaction related to a dealing referred to in paragraph (a);</p> <p>(c) provide any financial or other related service in respect of the property referred to in paragraph (a); or</p> <p>(d) make any property or any financial or other related service available, directly or indirectly, for the benefit of a designated person.</p>
Technical data	<p><b>6.</b> No person in Canada shall transfer, provide or communicate, directly or indirectly, technical data to Burma or any person in Burma.</p>
Investment —property in Burma held by or on behalf of Burma or national of Burma not ordinarily resident in Canada	<p><b>7. (1)</b> No person in Canada and no Canadian outside Canada shall invest in property situated in Burma and set out in subsection (3) held by or on behalf of Burma or a national of Burma who does not ordinarily reside in Canada.</p>
Investment —property held by or on behalf of a person in Burma	<p>(2) No person in Canada and no Canadian outside Canada shall invest in property set out in subsection (3) held by or on behalf of a person in Burma, including an entity carrying on business in Burma</p>

	<p>other than a national of Burma, by</p> <p>(a) acquiring a controlling interest in an entity that invests in property situated in Burma and set out in subsection (3);</p> <p>(b) establishing, with a controlling interest, an entity that invests in property situated in Burma and set out in subsection (3); or</p> <p>(c) holding a controlling interest in an entity that invests, after the date of the coming into force of the Regulations, in property situated in Burma and set out in subsection (3).</p>
Property	<p>(3) Subsections (1) and (2) apply in respect of the following property:</p> <p>(a) assets of an entity;</p> <p>(b) equity in an entity;</p> <p>(c) a debt security of an entity;</p> <p>(d) a loan to an entity;</p> <p>(e) an interest or a right in an entity that entitles the owner to a share in income or profits of the entity;</p> <p>(f) an interest or a right in an entity that entitles the owner to a share in the assets of that entity;</p> <p>(g) property used or intended to be used for the purpose of economic benefit or any other benefits; or</p> <p>(h) interest or rights arising from the commitment of capital or other resources, including</p> <p style="padding-left: 40px;">(i) contracts involving an investor's property, turnkey construction contracts, and concessions including the right to search for and extract oil and other resources, and</p> <p style="padding-left: 40px;">(ii) contracts when the remuneration depends substantially on the production, revenues or profits of an entity.</p>
Financial services	<p><b>8.</b> Subject to section 19, no person in Canada or Canadian outside Canada shall provide to or acquire financial services from Burma or any person in Burma.</p>
Docking — ship registered in Burma	<p><b>9.</b> No person shall dock in Canada or pass through Canada a ship that is registered in Burma, except if docking in Canada is necessary to safeguard human life.</p>
Docking — ship registered under an Act of Parliament	<p><b>10.</b> No person shall dock in Burma a ship that is registered or licensed, or for which an identification number has been issued, pursuant to any Act of Parliament, except if docking in Burma is necessary to safeguard human life or to ensure access to humanitarian assistance.</p>
Landing in Canada	<p><b>11.</b> No person shall land in Canada or fly over Canada an aircraft that is registered in Burma, except if landing in Canada is necessary to safeguard human life.</p>
Landing in Burma	<p><b>12.</b> No person shall land in Burma an aircraft that is registered in Canada or operated in connection with a Canadian air operator's certificate within the meaning of subsection 101.01(1) of the <i>Canadian Aviation Regulations</i>, except if landing in Burma is necessary to safeguard human life or to ensure access to humanitarian assistance.</p>
Prohibition	<p><b>13.</b> No person in Canada and no Canadian outside Canada shall do anything that causes, assists or promotes, or is intended to cause, assist or promote, any act or thing prohibited by sections 3 to 12.</p>

## DUTY TO DETERMINE

Determination	<p><b>14.</b> Each of the following entities must determine on a continuing basis whether it is in possession or control of property owned or controlled by or on behalf of a designated person:</p> <p>(a) authorized foreign banks, as defined in section 2 of the <i>Bank Act</i>, in respect of their business in Canada or banks to which that Act applies;</p> <p>(b) cooperative credit societies, savings and credit unions and caisses populaires regulated by a provincial Act and associations regulated by the <i>Cooperative Credit Associations Act</i>;</p> <p>(c) foreign companies, as defined in subsection 2(1) of the <i>Insurance Companies Act</i>, in respect of their insurance business in Canada;</p> <p>(d) companies, provincial companies and societies, as those terms are defined in subsection 2(1) of the <i>Insurance Companies Act</i>;</p> <p>(e) fraternal benefit societies regulated by a provincial Act in respect of their insurance activities and insurance companies and other entities engaged in the business of insuring risks that are regulated by a provincial Act;</p> <p>(f) companies to which the <i>Trust and Loan Companies Act</i> applies;</p> <p>(g) trust companies regulated by a provincial Act;</p> <p>(h) loan companies regulated by a provincial Act; and</p> <p>(i) entities authorized under provincial legislation to engage in the business of dealing in securities, or to provide portfolio management or investment counselling services.</p>
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## DISCLOSURE

Report	<p><b>15.</b> (1) Every person in Canada and every Canadian outside Canada shall disclose without delay to the Commissioner of the Royal Canadian Mounted Police</p> <p>(a) the existence of property in their possession or control that they have reason to believe is owned or controlled, directly or indirectly, by a designated person or by an entity owned or controlled by a designated person; and</p> <p>(b) information about a transaction or proposed transaction in respect of property referred to in paragraph (a).</p>
Immunity	<p>(2) No person contravenes subsection (1) by disclosing in good faith under that subsection.</p>

APPLICATION TO NO LONGER  
BE A DESIGNATED PERSON

Petition	<p><b>16.</b> (1) A designated person may apply to the Minister in writing to have their name removed from the schedule.</p>
Decision	<p>(2) On receipt of an application, the Minister shall decide whether there are reasonable grounds to recommend to the Governor in Council that the applicant's name be removed from the schedule.</p>

Presumption	(3) If the Minister does not make a decision on the application within 60 days after the day on which the application is received, the Minister is deemed to have decided to recommend that the applicant remain a designated person.
Notice	(4) The Minister shall give notice without delay to the applicant of any decision taken or deemed to have been taken.
New application	(5) If there has been a material change in circumstances since the last petition was submitted, a person may submit another application under subsection (1).

#### APPLICATION FOR A CERTIFICATE

Mistaken identity	<b>17.</b> (1) A person claiming not to be a designated person may apply to the Minister for a certificate stating that they are not the person who has been designated under section 2.
Certificate — time frame	(2) If it is established that the person is not a designated person, the Minister shall issue a certificate to the applicant within 15 days after the day on which the application is received.

#### EXCLUSIONS

Import and export	<p><b>18.</b> Sections 3 and 4 do not apply in respect of the following:</p> <p>(a) goods consigned to the Canadian Embassy in Bangkok, international organizations with diplomatic status, United Nations agencies, the International Red Cross and Red Crescent Movement or non-governmental organizations that are involved in humanitarian relief work in Burma, provided that an export permit under the <i>Export and Import Permits Act</i> has been granted for goods exported from Canada to Burma;</p> <p>(b) personal or settlers' effects that are taken or shipped by an individual leaving Canada or Burma and that are solely for the use of the individual or the individual's immediate family;</p> <p>(c) supplies exported from Canada to Burma, provided that an export permit under the <i>Export and Import Permits Act</i> has been granted for them, that no property referred to in section 5 is used for their payment, and that those supplies are</p> <p style="padding-left: 40px;">(i) intended strictly for medical purposes and consigned to a medical facility such as a hospital or clinic, or</p> <p style="padding-left: 40px;">(ii) composed of foodstuffs intended for human consumption;</p> <p>(d) informational materials, including books and other publications, provided that an export permit under the <i>Export and Import Permits Act</i> has been granted for those goods exported from Canada to Burma, that they do not contain technical data and that no property referred to in section 5 is used for their payment; and</p> <p>(e) personal correspondence including lettermail, printed papers and postcards of a weight not exceeding 250g per item of correspondence.</p>
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Financial services	<p><b>19.</b> Section 8 does not apply in respect of</p> <p>(a) any transaction in respect of the bank accounts of the Embassy of the Union of Myanmar in Ottawa that are used for their regular business;</p> <p>(b) non-commercial remittances of less than \$1000 sent to or from Burma or any person in Burma, provided that the funds are not being sent by, to or on behalf of a designated person and the person providing the financial services keeps a record of the transaction;</p> <p>(c) any transaction to international organizations with diplomatic status, United Nations agencies, the International Red Cross and Red Crescent Movement or Canadian non-governmental organizations who have entered into a grant or contribution agreement with the Canadian International Development Agency, for the purpose of pursuing humanitarian relief work in Burma; and</p> <p>(d) any pension payable to a person in Burma who is not a designated person.</p>
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#### APPLICATION PRIOR TO PUBLICATION

Application	<p><b>20.</b> For the purpose of paragraph 11(2)(a) of the <i>Statutory Instruments Act</i>, these Regulations apply according to their terms before they are published in the <i>Canada Gazette</i>.</p>
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#### COMING INTO FORCE

Registration	<p><b>21.</b> These Regulations come into force on the day on which they are registered.</p>
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#### SCHEDULE (Section 2)

1. Than Shwe, born February 2, 1933
2. Maung Aye, born December 25, 1937
3. Shwe Mann, born July 11, 1947
4. Khin Lay Thet, born June 19, 1947
5. Aung Thet Mann, born June 19, 1977 (also known among other names as Shwe Mann Ko Ko)
6. Toe Naing Mann, born June 29, 1978
7. Zay Zin Latt, born March 24, 1981
8. Thein Sein, born April 20, 1945
9. Tin Aung Myint Oo, born May 27, 1950
10. Kyaw Win, born January 3, 1944
11. Ye Myint, born October 21, 1943
12. Tin Lin Myint, born January 25, 1947
13. Aung Htwe, born February 1, 1943
14. Maung Bo, born February 16, 1945
15. Tin Naing Thein, born 1955
16. Saw Tun, born May 8, 1935
17. Chan Nyein, born 1944 (also known among other names as Chang Nyein)
18. Zaw Min, born January 10, 1949
19. Lun Thi, born July 18, 1940
20. Hla Tun, born July 11, 1951
21. Nyan Win, born January 22, 1953

22. Kyaw Myint, born 1940
23. Maung Oo, born 1952
24. Saw Lwin, born 1939
25. Soe Tha, born 1945
26. Thaug, born July 6, 1937
27. Thein Zaw, born October 20, 1951
28. Kyaw Thu, born August 15, 1949
29. Mya Oo, born January 25, 1940
30. Myint Swe, born May 24, 1951
31. Hsan Hsint, born 1951
32. Than Sein, born February 1, 1946
33. Tay Za, born July 8, 1964
34. Thidar Zaw, born February 24, 1964
35. Pye Phyo Tay Za, born January 29, 1987
36. Thiha, born June 24, 1960
37. Khin Shwe, born January 21, 1952
38. Zay Thiha, born January 1, 1977
39. Khin Nyunt, born October 11, 1939
40. Khin Win Shwe, born October 6, 1940
41. Air Bagan (also known among other names as Air Bagan Holdings Pte. Ltd. and Air Bagan Limited)
42. Bandoola Transportation Co. Ltd.
43. Berger Paint Manufacturing Co. Ltd.
44. Dagon Brewery
45. Granite Tile Factory (Kyaikto)
46. Hantha Waddy Golf Resort and Myodaw (City) Club Ltd.
47. Htoo Furniture (also known among other names as Htoo Wood, Htoo Wood Products, Htoo Wood Products Pte. Limited and Htoo Wood-Based Industry)
48. Htoo Group of Companies (also known among other names as Htoo Trading Company Limited and Htoo Trading Group Company)
49. Innwa Bank
50. MEC Disposable Syringe Factory
51. MEC Marble Mine
52. MEC Marble Tiles Factory
53. MEC Myanmar Cable Wire Factory
54. MEC Oxygen and Gases Factory
55. MEC Ship Breaking Service
56. MEC Steel Mills (Hmaw Bi/Pyi/Ywama)
57. MICB (also known among other names as Myanma Investment and Commercial Bank and Myanmar Investment and Commercial Bank)
58. Myaing Galay (Rhino Brand) Cement Factory
59. Myanma Economic Bank (also known among other names as Myanmar Economic Bank)
60. Myanma Economic Corporation (MEC)
61. Myanma Foreign Trade Bank (also known among other names as Myanmar Foreign Trade Bank)
62. Myanmar Ar (Power) Construction Services
63. Myanmar Brewery Ltd.
64. Myanmar Daewoo International
65. Myanmar Imperial Jade Co. Ltd.

66. Myanmar Nouveau Steel Co. Ltd.
67. Myanmar Posco Steel Co. Ltd.
68. Myanmar Rubber Wood Co. Ltd.
69. Myanmar Ruby Enterprise
70. Myanmar Segal International Ltd.
71. Myawaddy Bank Ltd.
72. Myawaddy Trading Ltd.
73. Myawaddy Travel Services
74. National Development Corp.
75. Nawaday Hotel and Travel Services
76. Ngwe Pin Le (Silver Sea) Livestock Breeding and Fishery Co.
77. Pavo Trading Pte. Ltd.
78. Rothman of Pall Mall Myanmar Private Ltd.
79. Sin Min (King Elephants) Cement Factory (Kyaukse)
80. Soap Factory (Paung)
81. The First Automotive Co. Ltd.
82. Union of Myanmar Economic Holding Ltd.
83. Yuzana Company Limited (also known among other names as Yuzana Construction)
84. Zay Gabar Company (also known among other names as Zaykabar Company)

#### **REGULATORY IMPACT ANALYSIS STATEMENT**

*(This statement is not part of the Regulations.)*

##### **Description**

Burma has been ruled by successive military-led governments since the early 1960s. While none has protected human rights or shown interest in advancing democracy, the current government is the most regressive and repressive of them all. The Burmese military regime has violently suppressed recent pro-democracy demonstrations, resulting in a considerable number of deaths, the arrest and detention of thousands of civilians. Forced relocation, rape by the military, extra-judicial killings, forced labour, the use of child soldiers and other human rights violations continue to be perpetrated against the people of Burma. Over the years, the actions of the Burmese regime have resulted in large-scale displacement of the population and an outflow of refugees to Thailand and other neighbouring countries.

The situation in Burma is particularly dangerous as the government's actions not only oppress its own people, but also bring substantial transnational destabilizing effects which threaten peace and security in the entire region and undermine freedom, democracy, human rights and the rule of law. The Government of Canada made the *Special Economic Measures (Burma) Regulations* in order to respond to the gravity of the situation in Burma, which in the Governor in Council's opinion constitutes a grave breach of international peace and security that has or is likely to result in a serious international crisis.

The measures implemented by the Regulations include

- . a ban on all goods exported from Canada to Burma, excepting only the export of humanitarian goods;
- . a ban on all goods imported from Burma into Canada;
- . a freeze on assets in Canada of any designated Burmese nationals connected with the Burmese State;



- . a ban on new investment in Burma by Canadian persons and companies;
- . a prohibition on the provision of Canadian financial services to and from Burma;
- . a prohibition on the export of any technical data to Burma;
- . a prohibition on Canadian-registered ships or aircraft from docking or landing in Burma;
- . a prohibition on Burmese-registered ships or aircraft from docking or landing in Canada and passing through Canada.

Under the Regulations, the Governor in Council may approve and list on a schedule to the Regulations the names of persons for whom there are reasonable grounds to believe that they are connected with the Burmese State. The Regulations provide a review mechanism to remove names from the schedule upon receipt of an application from a designated person. The Regulations have been drafted to reduce, to the greatest extent possible, adverse impact on Canadians of Burmese heritage, by incorporating specific exclusions from the export and import ban as well as from the prohibition on financial services, including exclusions for humanitarian activities in Burma and non-commercial remittances of less than \$1,000.

The measures implemented by the Regulations add to a series of measures that Canada already had against Burma, including

- . the requirement, since August 1997, for an export permit for all exports to Burma under the *Export and Import Permits Act*, which will only be granted for humanitarian goods;
- . the withdrawal of preferential import tariffs;
- . a visa ban on visits by high-level members of the Burmese government and armed forces;
- . the suspension of bilateral aid and commercial support;
- . the exclusion from a market-access initiative to eliminate most import duties and quotas;
- . an in-Canada travel notification requirement imposed on Ottawa-based Burmese diplomats; and
- . regular official announcements discouraging Canadian tourism to Burma and urging the business community not to invest or enter into commercial ventures in Burma.

A separate Order made pursuant to subsection 4(4) of the *Special Economic Measures Act* authorizes the Minister of Foreign Affairs to issue to any person in Canada and any Canadian outside Canada a permit to carry out a specified activity or transaction, or any class of activity or transaction, that is restricted or prohibited pursuant to the Regulations.

### **Alternatives**

The *Special Economic Measures Act* is the appropriate legislative authority for the implementation of these measures. The adoption of the Regulations is necessary for Canada to respond to this grave breach of international peace and security and to send a clear message to the Burmese government that Canada abhors the current human rights and humanitarian situation in that country and the failure of the Burmese government to enter into a genuine dialogue with the democratic opposition.

### **Benefits and costs**

Due to the minor scale of economic relations with Burma, impacts on Canadian businesses should be negligible.

### **Consultation**

Foreign Affairs and International Trade Canada drafted the Regulations in collaboration with the Department of Justice, the Department of Finance, the Office of the Superintendent of Financial Institutions, the Royal Canadian Mounted Police, the Canada Border Services Agency, the Canadian International Development Agency, Transport Canada, the Canadian Security Intelligence Service, the Department of Human Resources and Social Development, the Treasury Board, Veterans Affairs Canada and the Canadian Coast Guard.

### **Compliance and enforcement**

Compliance is ensured by the Royal Canadian Mounted Police and the Canada Border Services Agency. Every person who contravenes provisions of the Regulations is liable, upon conviction, to the punishments set out in section 8 of the *Special Economic Measures Act*.

### **Contacts**

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### **[Footnote a](#)**

S.C. 1992, c. 17

### **NOTICE:**

The format of the electronic version of this issue of the *Canada Gazette* was modified in order to be compatible with hypertext language (HTML). Its content is very similar except for the footnotes, the symbols and the tables.



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