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EN

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II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2018/647**of 26 April 2018****amending Regulation (EU) No 401/2013 concerning restrictive measures in respect of Myanmar/Burma**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215 thereof,

Having regard to Council Decision 2013/184/CFSP of 22 April 2013 concerning restrictive measures against Myanmar/Burma and repealing Decision 2010/232/CFSP ⁽¹⁾,

Having regard to the joint proposal of the High Representative of the Union for Foreign Affairs and Security Policy and of the European Commission,

Whereas:

- (1) On 26 February 2018, the Council adopted conclusions condemning the ongoing widespread, systematic grave human rights violations committed by the Myanmar/Burma military and security forces and calling on the Government of Myanmar/Burma and the security forces to ensure that security, the rule of law and accountability prevail in Rakhine, Kachin and Shan States.
- (2) In this context the Council adopted Decision (CFSP) 2018/655 ⁽²⁾ amending Decision 2013/184/CFSP, whereby it imposed further restrictive measures on Myanmar/Burma in the form of a prohibition on the export of dual-use goods for military and Border Guard Police end-users, restrictions on the export of equipment for monitoring communications that might be used for internal repression, and targeted restrictive measures against certain natural persons from the Myanmar Armed Forces (Tatmadaw) and the Border Guard Police responsible for serious human rights violations, responsible for obstructing the provision of humanitarian assistance to civilians in need and responsible for obstructing the conduct of independent investigations into alleged serious human rights violations or abuses, as well as persons, entities or bodies associated with them.
- (3) Council Regulation (EU) No 401/2013 ⁽³⁾ gives effect to the measures provided for in Decision 2013/184/CFSP. Certain measures provided for in Decision (CFSP) 2018/655 fall within the scope of the Treaty and therefore, with a view, in particular, to ensuring their uniform application by economic operators in all Member States, regulatory action at the level of the Union is necessary in order to implement them.
- (4) The passage of humanitarian assistance for civilians in need, subject to control of the parties to the conflict and in accordance with international humanitarian law, should not be impeded. It is thus appropriate to apply restrictions on natural persons from the Myanmar Armed Forces (Tatmadaw) responsible for obstructing the

⁽¹⁾ OJ L 111, 23.4.2013, p. 75.⁽²⁾ Council Decision (CFSP) 2018/655 of 26 April 2018 amending Decision 2013/184/CFSP concerning restrictive measures against Myanmar/Burma (see page 29 of this Official Journal).⁽³⁾ Council Regulation (EU) No 401/2013 of 2 May 2013 concerning restrictive measures in respect of Myanmar/Burma and repealing Regulation (EC) No 194/2008 (OJ L 121, 3.5.2013, p. 1).

rapid and unimpeded passage of humanitarian assistance for civilians in need. Such restrictions should not unduly affect the delivery of humanitarian assistance and should be applied in full consideration of human rights law and of the applicable rules of international humanitarian law.

- (5) Regulation (EU) No 401/2013 should therefore be amended accordingly.
- (6) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular the right to an effective remedy and a fair trial and the right to the protection of personal data. This Regulation should be applied in accordance with those rights.
- (7) The power to amend the list in Annex IV to Regulation (EU) No 401/2013 should be exercised by the Council in order to ensure consistency with the process for amending and reviewing the Annex to Decision (CFSP) 2018/655.
- (8) For the implementation of this Regulation, and in order to create maximum legal certainty within the Union, the names and other relevant data concerning natural and legal persons, entities and bodies whose funds and economic resources are to be frozen in accordance with this Regulation should be made public. Any processing of personal data should comply with Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽¹⁾ and Directive 95/46/EC of the European Parliament and of the Council ⁽²⁾.
- (9) In order to ensure that the measures provided for in this Regulation are effective, it should enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 401/2013 is amended as follows:

- (1) Article 1 is replaced by the following:

'Article 1

For the purposes of this Regulation, the following definitions apply:

- (a) "claim" means any claim, whether asserted by legal proceedings or not, made before or after the date of entry into force of this Regulation, under or in connection with a contract or transaction, and includes in particular:
 - (i) a claim for performance of any obligation arising under or in connection with a contract or transaction;
 - (ii) a claim for extension or payment of a bond, financial guarantee or indemnity of whatever form;
 - (iii) a claim for compensation in respect of a contract or transaction;
 - (iv) a counterclaim;
 - (v) a claim for the recognition or enforcement, including by the procedure of *exequatur*, of a judgment, an arbitration award or an equivalent decision, wherever made or given;
- (b) "contract or transaction" means any transaction of whatever form and whatever the applicable law, whether comprising one or more contracts or similar obligations made between the same or different parties; for this purpose "contract" includes a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, and credit, whether legally independent or not, as well as any related provision arising under, or in connection with, the transaction;

⁽¹⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽²⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

- (c) “competent authorities” refers to the competent authorities of the Member States as identified on the websites listed in Annex II;
- (d) “economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds, but may be used to obtain funds, goods or services;
- (e) “freezing of economic resources” means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them;
- (f) “freezing of funds” means preventing any move, transfer, alteration, use of, access to, 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 enable the funds to be used, including portfolio management;
- (g) “funds” means financial assets and benefits of every kind, including, but not limited to:
 - (i) cash, cheques, claims on money, drafts, money orders and other payment instruments;
 - (ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
 - (iii) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
 - (iv) interest, dividends or other income on or value accruing from or generated by assets;
 - (v) credit, right of set-off, guarantees, performance bonds or other financial commitments;
 - (vi) letters of credit, bills of lading, bills of sale; and
 - (vii) documents showing evidence of an interest in funds or financial resources;
- (h) “technical assistance” means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services, including verbal forms of assistance;
- (i) “brokering services” means:
 - (i) the negotiation or arrangement of transactions for the purchase, sale or supply of goods and technology from a third country to any other third country, or
 - (ii) the selling or buying of goods and technology that are located in third countries for their transfer to another third country;
- (j) “import” means any entry of goods into the customs territory of the Union or other territories to which the Treaty applies, under the conditions laid down in Articles 349 and 355 thereof. It includes, within the meaning of Regulation (EU) No 952/2013 of the European Parliament and of the Council (*) laying down the Union Customs Code, placing in a free zone, placing under special procedure and release for free circulation, but it excludes transit or temporary storage;
- (k) “export” means any departure of goods from the customs territory of the Union or other territories to which the Treaty applies, under the conditions laid down in Articles 349 and 355 thereof. It includes, within the meaning of Regulation (EU) No 952/2013, the departure of goods that requires a customs declaration and the departure of goods after their storage in a free zone or after their placement under a special procedure, but it excludes transit or temporary storage;
- (l) “exporter” means any natural or legal person on whose behalf an export declaration is made, being the person who, at the time when the declaration is accepted, holds the contract with the consignee in the third country and has the power for determining the sending of the item out of the customs territory of the Union or other territories to which the Treaty applies;
- (m) “territory of the Union” means the territories of the Member States to which the Treaty is applicable, under the conditions laid down in the Treaty, including their airspace.

(*) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).;

(3) the following Articles are inserted:

Article 3a

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, dual-use goods and technology as included in Annex I to Council Regulation (EC) No 428/2009 (*), whether or not originating in the Union, to any natural or legal person, entity or body in Myanmar/Burma or for use in Myanmar/Burma, if those items are or may be intended, in their entirety or in part, for military use, military end-user or the Border Guard Police.

Where the end-user is the Myanmar's/Burma's military, any dual-use goods and technology procured by it shall be deemed to be for military use.

2. When deciding on requests for authorisations in accordance with Regulation (EC) No 428/2009, the competent authorities shall not grant an authorisation for exports to any natural or legal person, entity or body in Myanmar/Burma or for use in Myanmar/Burma, if they have reasonable grounds to believe that the end-user might be a military end-user, the Border Guard Police or that the goods might have a military end-use.

3. Exporters shall supply the competent authorities with all relevant information required for their application for an export authorisation.

4. It shall be prohibited:

(a) to provide technical assistance, brokering services or other services related to goods and technology referred to in paragraph 1 and to the provision, manufacture, maintenance and use of these goods and technology, directly or indirectly to any military end-user, the Border Guard Police or for military use in Myanmar/Burma;

(b) to provide financing or financial assistance related to goods and technology referred to in paragraph 1, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of these goods and technology, or for the provision of related technical assistance, brokering services or other services, directly or indirectly to any military end-user, the Border Guard Police or for military use in Myanmar/Burma.

5. The prohibitions in paragraphs 1 and 4 shall be without prejudice to the execution of contracts concluded before 27 April 2018 or ancillary contracts necessary for the execution of such contracts.

6. Paragraph 1 shall not apply to protective clothing, including flak jackets and military helmets, temporarily exported to Myanmar/Burma by UN personnel, personnel of the EU or its Member States, representatives of the media and humanitarian and development workers and associated personnel for their personal use only.

Article 3b

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, equipment, technology or software identified in Annex III, whether or not originating in the Union, to any person, entity or body in Myanmar/Burma or for use in Myanmar/Burma, unless the competent authority of the relevant Member State, as identified on the websites listed in Annex II, has given prior authorisation.

2. The competent authorities of the Member States, as identified on the websites listed in Annex II, shall not grant any authorisation under paragraph 1 if they have reasonable grounds to determine that the equipment, technology or software in question would be used for internal repression by the Government of Myanmar/Burma, public bodies, corporations or agencies, or any person or entity acting on their behalf or at their direction.

3. Annex III shall include equipment, technology or software intended primarily for use in the monitoring or interception of internet or telephone communications.

4. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this Article, within four weeks of the authorisation.

Article 3c

1. Unless the competent authority of the relevant Member State, as identified on the websites listed in Annex II, has given prior authorisation in accordance with Article 3b, it shall be prohibited:

(a) to provide, directly or indirectly, technical assistance or brokering services related to the equipment, technology and software identified in Annex III, or related to the installation, provision, manufacture, maintenance and use of the equipment and technology identified in Annex III or to the provision, installation, operation or updating of any software identified in Annex III, to any person, entity or body in Myanmar/Burma or for use in Myanmar/Burma;

- (b) to provide, directly or indirectly, financing or financial assistance related to the equipment, technology and software identified in Annex III to any person, entity or body in Myanmar/Burma or for use in Myanmar/Burma;
- (c) to provide any telecommunication or internet monitoring or interception services of any kind to, or for the direct or indirect benefit of, Government of Myanmar/Burma, public bodies, corporations and agencies or any person or entity acting on their behalf or at their direction.

2. For the purposes of point (c) of paragraph 1, “telecommunication or internet monitoring or interception services” means those services that provide, in particular using equipment, technology or software as identified in Annex III, access to and delivery of a subject’s incoming and outgoing telecommunications and call- associated data for the purpose of its extraction, decoding, recording, processing, analysis or storing, or any other related activity.

(*) Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1).;

(4) in Article 4, paragraph 1 is replaced by the following:

‘1. By way of derogation from Articles 2(1), 3(2), 3a(1) and 3a(4), and subject to Article 5, the competent authorities in the Member States, as indicated in the websites listed in Annex II, may authorise, under such conditions as they deem appropriate:

- (a) the sale, supply, transfer or export of equipment which might be used for internal repression as listed in Annex I or dual-use goods and technology listed in Annex I to Regulation (EC) No 428/2009, intended solely for humanitarian or protective use, or for institution-building programmes of the United Nations and the European Union, or for European Union and United Nations crisis-management operations;
- (b) the sale, supply, transfer or export of de-mining equipment and material for use in de-mining operations; and
- (c) the provision of financing and financial assistance and technical assistance related to equipment, material, programmes and operations referred to in points (a) and (b).;

(5) the following Articles are inserted:

‘Article 4a

1. All funds and economic resources belonging to or owned, held or controlled by any natural or legal person, entity or body listed in Annex IV shall be frozen.

2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies listed in Annex IV.

3. Annex IV shall include:

- (a) natural persons from the Myanmar Armed Forces (Tatmadaw) and the Border Guard Police responsible for serious human rights violations in Myanmar/Burma;
- (b) natural persons from the Myanmar Armed Forces (Tatmadaw) and the Border Guard Police responsible for obstructing the provision of humanitarian assistance to civilians in need;
- (c) natural persons from the Myanmar Armed Forces (Tatmadaw) and the Border Guard Police responsible for obstructing the conduct of independent investigations into alleged serious human rights violations or abuses;
- (d) natural or legal persons, entities or bodies associated with the natural persons referred to in points (a), (b) and (c).

4. Annex IV shall include the grounds for the listing of the persons, entities and bodies concerned.

5. Annex IV shall also include, where available, information necessary to identify the natural or legal persons, entities and bodies concerned. With regard to natural persons, such information may include names including aliases, date and place of birth, nationality, passport and ID card numbers, gender, address, if known, and function or profession. With regard to legal persons, entities and bodies, such information may include names, place and date of registration, registration number and place of business.

Article 4b

1. By way of derogation from Article 4a, the competent authorities of the Member States as identified on the websites listed in Annex II, may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the funds or economic resources are:

- (a) necessary to satisfy the basic needs of natural and legal persons listed in Annex IV, and dependent family members of such natural persons, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums and public utility charges;
- (b) intended exclusively for payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services;
- (c) intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources;
- (d) necessary for extraordinary expenses, provided that the relevant competent authority has notified the grounds on which it considers that a specific authorisation should be granted to the competent authorities of the other Member States and to the Commission at least two weeks prior to authorisation; or
- (e) to be paid into or from an account of a diplomatic or consular mission or an international organisation enjoying immunities in accordance with international law, insofar as such payments are intended to be used for official purposes of the diplomatic or consular mission or international organisation.

2. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 1 within four weeks following the authorisation.

Article 4c

1. By way of derogation from Article 4a, the competent authorities in the Member States as identified on the websites listed in Annex II, may authorise the release of certain frozen funds or economic resources if the following conditions are met:

- (a) the funds or economic resources are subject to an arbitral decision rendered prior to the date on which the natural or legal person, entity or body referred to in Article 4a was included in Annex IV, or of a judicial or administrative decision rendered in the Union, or a judicial decision enforceable in the Member State concerned, prior to, on or after that date;
- (b) the funds or economic resources will be used exclusively to satisfy claims secured by such a decision or recognised as valid in such a decision, within the limits set by applicable laws and regulations governing the rights of persons having such claims;
- (c) the decision is not for the benefit of a natural or legal person, entity or body listed in Annex IV; and
- (d) recognising the decision is not contrary to public policy in the Member State concerned.

2. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 1 within four weeks of the authorisation.

Article 4d

1. By way of derogation from Article 4a and provided that a payment by a natural or legal person, entity or body listed in Annex IV is due under a contract or agreement that was concluded by, or an obligation that arose for, the natural or legal person, entity or body concerned before the date on which that natural or legal person, entity or body was included in Annex IV, the competent authorities of the Member States may authorise, under such conditions as they deem appropriate, the release of certain frozen funds or economic resources, provided that the competent authority concerned has determined that:

- (a) the funds or economic resources are to be used for a payment by a natural or legal person, entity or body listed in Annex IV;
- (b) the payment is not in breach of Article 4a(2)

2. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 1 within four weeks of the authorisation.

3. Article 4a(2) shall not prevent the crediting of the frozen accounts by financial or credit institutions that receive funds transferred by third parties to the account of a listed natural or legal person, entity or body, provided that any additions to such accounts will also be frozen. The financial or credit institution shall inform the relevant competent authority about any such transaction without delay.

4. Provided that any such interest, other earnings and payments are frozen in accordance with Article 4a, Article 4a(2) shall not apply to the addition to frozen accounts of:

- (a) interest or other earnings on those accounts;
- (b) payments due under contracts, agreements or obligations that were concluded or arose before the date on which the natural or legal person, entity or body referred to in Article 4a was included in Annex IV; or
- (c) payments due under judicial, administrative or arbitral decisions rendered in a Member State or enforceable in the Member State concerned.

Article 4e

1. Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy, natural and legal persons, entities and bodies shall:

- (a) supply immediately any information which would facilitate compliance with this Regulation, such as information on accounts and amounts frozen in accordance with Article 4a, to the competent authority of the Member State where they are resident or located, and shall transmit such information, directly or through the Member State, to the Commission; and
- (b) cooperate with the competent authority in any verification of the information referred to in point (a).

2. Any additional information received directly by the Commission shall be made available to the Member States.

3. Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.

Article 4f

1. The freezing of funds and economic resources or the refusal to make funds or economic resources available, carried out in good faith on the basis that such action is in accordance with this Regulation, shall not give rise to liability of any kind on the part of the natural or legal person or entity or body implementing it, or its directors or employees, unless it is proved that the funds and economic resources were frozen or withheld as a result of negligence.

2. Actions by natural or legal persons, entities or bodies shall not give rise to any liability of any kind on their part if they did not know, and had no reasonable cause to suspect, that their actions would infringe the measures set out in this Regulation.

Article 4g

It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the measures laid down in this Regulation.

Article 4h

1. No claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under this Regulation, including claims for indemnity or any other claim of this type, such as a claim for compensation or a claim under a guarantee, in particular a claim for extension or payment of a bond, guarantee or indemnity, in particular a financial guarantee or financial indemnity, of whatever form, shall be satisfied, if they are made by:

- (a) designated natural or legal persons, entities or bodies listed in Annex IV;
- (b) any natural or legal person, entity or body acting through or on behalf of one of the persons, entities or bodies referred to in point (a).

2. In any proceedings for the enforcement of a claim, the onus of proving that satisfying the claim is not prohibited by paragraph 1 shall be on the natural or legal person, entity or body seeking the enforcement of that claim.

3. This Article is without prejudice to the right of the natural or legal persons, entities and bodies referred to in paragraph 1 to judicial review of the legality of the non-performance of contractual obligations in accordance with this Regulation.

Article 4i

1. Where the Council decides to subject a natural or legal person, entity or body to the measures referred to in Article 4a, it shall amend Annex IV accordingly.

2. The Council shall communicate its decision, including the grounds for listing, to the natural or legal person, entity or body referred to in paragraph 1, either directly, if the address is known, or through the publication of a notice, providing such natural or legal person, entity or body with an opportunity to present observations.

3. Where observations are submitted, or where substantial new evidence is presented, the Council shall review its decision and inform the natural or legal person, entity or body accordingly.

4. The list in Annex IV shall be reviewed at regular intervals and at least every 12 months.'

(6) Article 6 is replaced by the following:

'Article 6

1. The Commission and Member States shall inform each other of the measures taken under this Regulation and share any other relevant information at their disposal in connection with this Regulation, in particular information concerning:

(a) funds frozen under Article 4a and authorisations granted under Articles 3a, 3b, 3c, 4b, 4c and 4d;

(b) violation and enforcement problems and judgments handed down by national courts.

2. The Member States shall immediately inform each other and the Commission of any other relevant information at their disposal which might affect the effective implementation of this Regulation.';

(7) the text set out in Annex I to this Regulation is added as Annex III;

(8) the text set out in Annex II to this Regulation is added as Annex IV.

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 April 2018.

For the Council
The President
E. ZAHARIEVA

ANNEX I

‘ANNEX III

Equipment, technology and software referred to in Articles 3b and 3c*General Note*

Notwithstanding the contents of this Annex, it shall not apply to:

- (a) equipment, technology or software which are specified in Annex I to Regulation (EC) No 428/2009 or the Common Military List; or
- (b) software which is designed for installation by the user without further substantial support by the supplier and which is generally available to the public by being sold from stock at retail selling points, without restriction, by means of:
 - (i) over-the-counter transactions;
 - (ii) mail order transactions;
 - (iii) electronic transactions; or
 - (iv) telephone order transactions; or
- (c) software which is in the public domain.

The sections A, B, C, D and E refer to the sections referred to in Regulation (EC) No 428/2009.

The “equipment, technology and software” referred to in Articles 3b and 3c is:

A. List of equipment

- Deep Packet Inspection equipment
- Network Interception equipment including Interception Management Equipment (IMS) and Data Retention Link Intelligence equipment
- Radio Frequency monitoring equipment
- Network and Satellite jamming equipment
- Remote Infection equipment
- Speaker recognition/processing equipment
- IMSI ⁽¹⁾, MSISDN ⁽²⁾, IMEI ⁽³⁾, TMSI ⁽⁴⁾ interception and monitoring equipment
- Tactical SMS ⁽⁵⁾/GSM ⁽⁶⁾/GPS ⁽⁷⁾/GPRS ⁽⁸⁾/UMTS ⁽⁹⁾/CDMA ⁽¹⁰⁾/PSTN ⁽¹¹⁾ interception and monitoring equipment
- DHCP ⁽¹²⁾/SMTP ⁽¹³⁾, GTP ⁽¹⁴⁾ information interception and monitoring equipment

⁽¹⁾ IMSI stands for International Mobile Subscriber Identity. It is a unique identification code for each mobile telephony device, integrated in the SIM card and which allows identification of such SIM via GSM and UMTS networks.

⁽²⁾ MSISDN stands for Mobile Subscriber Integrated Services Digital Network Number. It is a number uniquely identifying a subscription in a GSM or a UMTS mobile network. Simply put, it is the telephone number to the SIM card in a mobile phone and therefore it identifies a mobile subscriber as well as IMSI, but to route calls through him.

⁽³⁾ IMEI stands for International Mobile Equipment Identity. It is a number, usually unique to identify GSM, WCDMA and IDEN mobile phones as well as some satellite phones. It is usually found printed inside the battery compartment of the phone. Interception (wiretapping) can be specified by its IMEI number as well as IMSI and MSISDN.

⁽⁴⁾ TMSI stands for Temporary Mobile Subscriber Identity. It is the identity that is most commonly sent between the mobile and the network.

⁽⁵⁾ SMS stands for Short Message System.

⁽⁶⁾ GSM stands for Global System for Mobile Communications.

⁽⁷⁾ GPS stands for Global Positioning System.

⁽⁸⁾ GPRS stands for General Package Radio Service.

⁽⁹⁾ UMTS stands for Universal Mobile Telecommunication System.

⁽¹⁰⁾ CDMA stands for Code Division Multiple Access.

⁽¹¹⁾ PSTN stands for Public Switch Telephone Networks.

⁽¹²⁾ DHCP stands for Dynamic Host Configuration Protocol.

⁽¹³⁾ SMTP stands for Simple Mail Transfer Protocol.

⁽¹⁴⁾ GTP stands for GPRS Tunnelling Protocol.

- Pattern Recognition and Pattern Profiling equipment
- Remote Forensics equipment
- Semantic Processing Engine equipment
- WEP and WPA code breaking equipment
- Interception equipment for VoIP proprietary and standard protocol

B. Not used

C. Not used

D. “Software” for the “development”, “production” or “use” of the equipment specified in A above.

E. “Technology” for the “development”, “production” or “use” of the equipment specified in A above.

Equipment, technology and software falling within these sections is within the scope of this Annex only to the extent that it falls within the general description “internet, telephone and satellite communications interception and monitoring systems”.

For the purpose of this Annex “monitoring” means acquisition, extraction, decoding, recording, processing, analysis and archiving call content or network data.’

ANNEX II

‘ANNEX IV

List of natural and legal persons, entities and bodies referred to in Article 4a’.

COUNCIL IMPLEMENTING REGULATION (EU) 2018/648**of 26 April 2018****implementing Article 11(4) of Regulation (EU) No 753/2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 753/2011 of 1 August 2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan ⁽¹⁾, and in particular Article 11(4) thereof,

Having regard to the proposal of the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 1 August 2011, the Council adopted Regulation (EU) No 753/2011.
- (2) On 10 April 2018, the United Nations Security Council Committee, established pursuant to paragraph 30 of United Nations Security Council Resolution 1988 (2011), updated the information relating to one person subject to restrictive measures.
- (3) Annex I to Regulation (EU) No 753/2011 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) No 753/2011 is hereby amended as set out in the Annex to this Regulation.

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 April 2018.

For the Council

The President

E. ZAHARIEVA

⁽¹⁾ OJ L 199, 2.8.2011, p. 1.

ANNEX

The entry concerning the person listed below is replaced by the following entry:

‘(83) **Mohammed Omar Ghulam Nabi**

Title: Mullah. **Grounds for listing:** Leader of the Faithful (“Amir ul- Mumineen”), Afghanistan. **Date of birth:** (a) Approximately 1966, (b) 1960, (c) 1953. **Place of birth:** (a) Naw Deh village, Deh Rawud District, Uruzgan Province, Afghanistan, (b) Maiwand District, Kandahar Province, Afghanistan. **Nationality:** Afghan. **Date of UN designation:** 12.4.2000.

Other information: Father’s name is Ghulam Nabi, also known as Mullah Musafir. Left eye missing. Brother-in-law of Ahmad Jan Akhundzada Shukoor Akhundzada. Believed to be in Afghanistan/Pakistan border area. Belongs to Hotak tribe. Review pursuant to Security Council resolution 1822 (2008) was concluded on 27 Jul. 2010. Reportedly deceased as of April 2013. INTERPOL- UN Security Council Special Notice web link: <https://www.interpol.int/en/notice/search/un/1427394>

Additional information from the narrative summary of reasons for listing provided by the Sanctions Committee:

Mohammed Omar holds the title of “Commander of the Faithful of the Islamic Emirate of Afghanistan” and is the supreme leader of the Taliban movement in the Taliban hierarchy. He sheltered Usama bin Laden (deceased) and his Al-Qaida network in the years prior to the 11 September 2001 attacks in the United States. He has been directing the Taliban against the Government of Afghanistan and their allies in Afghanistan since 2001.

Mohammed Omar commands the allegiance of other prominent military leaders in the region, such as Jalaluddin Haqqani.’

COMMISSION DELEGATED REGULATION (EU) 2018/649**of 23 January 2018****amending Annex I to Regulation (EC) No 443/2009 of the European Parliament and of the Council
as regards the evolution of the mass of new passenger cars registered in 2014, 2015 and 2016****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles ⁽¹⁾, and in particular the third subparagraph of Article 13(2) thereof,

Whereas:

- (1) The average mass value used for the purpose of calculating the specific emissions of CO₂ for each new passenger car is to be adjusted every 3 years to take into account any changes in the average mass of the new vehicles registered in the Union.
- (2) It is evident from the monitoring of the mass in running order of new passenger cars registered in the Union in the calendar years 2014, 2015 and 2016 that the average mass has decreased and the figure M₀ referred to in point 1 of Annex I to Regulation (EC) No 443/2009 should therefore be adjusted.
- (3) The new value should be determined by taking into account only those values that the vehicle manufacturers concerned have been able to verify whilst excluding values from the calculation that were obviously incorrect (i.e. values lower than 500 kg), as well as values relating to vehicles that did not fall within the scope of Regulation (EC) No 443/2009. Moreover, the new value should be based on the weighted average taking into account the number of new passenger car registrations in the Union in calendar years 2014, 2015 and 2016.
- (4) Against that background, the M₀ value to be applied from 2019 should be decreased by 12,52 kg from 1 392,4 to 1 379,88 kg.
- (5) Annex I to Regulation (EC) No 443/2009 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Point (1) of Annex I to Regulation (EC) No 443/2009 is amended as follows:

- (1) the following point (ba) is inserted:

‘(ba) From 2019:

$$\text{Specific emissions of CO}_2 = 130 + a \times (M - M_0)$$

Where:

M = mass of the vehicle in kilograms (kg)

M₀ = 1 379,88

a = 0,0457’

- (2) in point (c), the figure M₀ is replaced by the following:

‘M₀ = 1 379,88’.*Article 2*This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.⁽¹⁾ OJ L 140, 5.6.2009, p. 1.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 January 2018.

For the Commission

The President

Jean-Claude JUNKER

COMMISSION REGULATION (EU) 2018/650**of 20 April 2018****establishing a prohibition of fishing for anglerfish in areas 8c, 9 and 10; Union waters of
CECAF 34.1.1 by vessels flying the flag of France**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

Whereas:

- (1) Council Regulation (EU) 2018/120 ⁽²⁾ lays down quotas for 2018.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2018.
- (3) It is therefore necessary to prohibit fishing activities for that stock,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2018 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

*Article 3***Entry into force**

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 April 2018.

*For the Commission,
On behalf of the President,
João AGUIAR MACHADO*

*Director-General
Directorate-General for Maritime Affairs and Fisheries*

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018, p. 1).

ANNEX

No	06/TQ120
Member State	France
Stock	ANF/8C3411
Species	Anglerfish (<i>Lophiidae</i>)
Zone	8c, 9 and 10; Union waters of CECAF 34.1.1
Closing date	14.3.2018

COMMISSION REGULATION (EU) 2018/651**of 23 April 2018****establishing a prohibition of fishing for red seabream in Union and international waters of VI, VII and VIII by vessels flying the flag of France**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

Whereas:

- (1) Council Regulation (EU) 2016/2285 ⁽²⁾ lays down quotas for 2018.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2018.
- (3) It is therefore necessary to prohibit fishing activities for that stock,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2018 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

*Article 3***Entry into force**

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 April 2018.

*For the Commission,
On behalf of the President,*

João AGUIAR MACHADO

Director-General

Directorate-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ Council Regulation (EU) 2016/2285 of 12 December 2016 fixing for 2017 and 2018 the fishing opportunities for Union fishing vessels for certain deep-sea fish stocks and amending Council Regulation (EU) 2016/72 (OJ L 344, 17.12.2016, p. 32).

ANNEX

No	05/TQ2285
Member State	France
Stock	SBR/678-
Species	Red seabream (<i>Pagellus bogaraveo</i>)
Zone	Union and international waters of VI, VII and VIII
Closing date	14.3.2018

COMMISSION REGULATION (EU) 2018/652**of 23 April 2018****establishing a temporary prohibition of fishing for redfish in NAFO 3M area by vessels flying the flag of a Member State of the European Union**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

Whereas:

- (1) Council Regulation (EU) 2018/120 ⁽²⁾ lays down quotas for 2018.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the European Union have exhausted the mid-term quota allocated for the period before 1 July 2018.
- (3) It is therefore necessary to prohibit directed fishing activities for that stock until 30 June 2018,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member States referred to in the Annex to this Regulation for the stock referred to therein for the period from 1 January 2018 until 30 June 2018 included shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Directed fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member States referred to therein shall be prohibited from the date set out in that Annex until 30 June 2018 included.

*Article 3***Entry into force**

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 April 2018.

For the Commission,

On behalf of the President,

João AGUIAR MACHADO

Director-General

Directorate-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018, p. 1).

ANNEX

No	07/TQ120
Member State	European Union (All Member States)
Stock	RED/N3M.
Species	Redfish (<i>Sebastes</i> spp.)
Zone	NAFO 3M
Closing period	22 March 2018 until 30 June 2018

DECISIONS

COUNCIL DECISION (CFSP) 2018/653

of 26 April 2018

on the establishment of a warehouse capability for civilian crisis-management missions

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 42(4) and 43(2) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) For the purpose of the Union's civilian crisis-management operations it is necessary to ensure that rapid deployment needs and operational requirements are met.
- (2) On 13 November 2012 the Council adopted Decision 2012/698/CFSP ⁽¹⁾, establishing a warehouse for civilian crisis-management missions. Pursuant to Article 6 of that Decision, a review of the utility, effectiveness and cost-efficiency of the warehouse has been conducted by the European External Action Service (EEAS). The outcome of that review was discussed with the relevant Council preparatory bodies in the first half of 2016.
- (3) On 3 May 2016 the Political and Security Committee reaffirmed that the establishment of a warehouse capability is a useful measure that would support the rapid deployment of missions under the common security and defence policy (CSDP). It agreed that a new warehouse capability should be operated by a public law body or a body governed by private law with a public service mission of the Member States as provided for in point (c) of Article 58(1) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽²⁾, and requested the EEAS to conduct the selection procedure. The terms of reference for the selection procedure have been endorsed by the relevant Council preparatory bodies.
- (4) Following the report by the EEAS, the High Representative of the Union for Foreign Affairs and Security Policy ('the High Representative') made a recommendation to the Council to select the Swedish Civil Contingencies Agency (Myndigheten för samhällsskydd och beredskap — MSB) as the warehouse capability operator for the implementation of the warehouse capability.
- (5) The warehouse capability should acquire, store, maintain and replenish a strategic stock of key equipment and assets needed for the rapid deployment of civilian CSDP missions. It should also acquire, store, maintain and make available new and used items of such equipment and assets, as well as provide support services, for civilian CSDP missions. It should also be possible for it to acquire, store and make available any other items of used equipment and assets recovered from such missions.
- (6) It should also be possible for the warehouse capability to provide, as a secondary task, the same support for other operational action of the Union under Article 28 of the Treaty and for European Union Special Representatives (EUSRs).
- (7) The warehouse capability should be implemented for a period of three years, with a possible extension of a further year,

⁽¹⁾ Council Decision 2012/698/CFSP of 13 November 2012 on the establishment of a warehouse for civilian crisis management missions (OJ L 314, 14.11.2012, p. 25).

⁽²⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

Objectives

1. For the purposes of ensuring the rapid deployment of key equipment and assets and the provision of appropriate support services for its civilian crisis-management missions, as well as of ensuring quick and continuous access by those missions to such equipment and assets, the Union shall strengthen its capabilities through the establishment of a warehouse capability.
2. The warehouse capability may also provide, as required, the same support with regard to equipment, assets and services, for other operational action of the Union under Article 28 of the Treaty and EUSRs.

Article 2

Establishment of a warehouse capability

1. For the purposes set out in Article 1, a warehouse capability shall be established. It shall perform the following functions:
 - (a) acquire, store, maintain and replenish a strategic stock of key equipment and assets, as identified in the Annex;
 - (b) acquire, store, maintain and make available new and used items of key equipment and assets and provide support services, as identified in the Annex, for civilian CSDP missions, including items recovered from other such missions.
2. The warehouse capability may also acquire, store, maintain and make available for civilian CSDP missions relevant items of equipment and assets which have a similar nature and use to the items identified in the Annex.
3. The warehouse capability may also acquire, store and make available for civilian CSDP missions items of used equipment and assets recovered from other such missions which have a different nature and use to the items identified in the Annex.
4. The warehouse capability may also perform, as required, the functions set out in point (b) of paragraph 1 and paragraphs (2) and (3) with regard to other operational action of the Union and to EUSRs.

Article 3

Implementation

1. The High Representative shall be responsible for the implementation of this Decision.
2. The technical implementation of this Decision shall be carried out by the Swedish Civil Contingencies Agency, which shall act as the warehouse capability operator. The Swedish Civil Contingencies Agency shall perform its tasks under the responsibility of the High Representative without prejudice to the financial responsibilities of the Commission as set out in Article 4(3).
3. Detailed arrangements for the implementation of this Decision shall be agreed between the Swedish Civil Contingencies Agency and the Civilian Operation Commander in consultation with the competent Commission services. Those arrangements shall, in particular, ensure that the Civilian Operation Commander has access to the warehouse to exercise technical and operational oversight in order to ensure the deployment capability and the proper functioning of civilian crisis-management missions. The Civilian Operation Commander shall also assess the technical suitability of used assets for storage and future use, and report on the need to refresh and roll over stocks.
4. The warehouse capability shall make available the equipment and assets referred to in point (b) of Article 2(1) and Article 2(2) at the request of a civilian CSDP mission, on the basis of the specific needs of the mission and in accordance with the mandate of the mission. The same conditions shall apply *mutatis mutandis* as regards other operational action of the Union and EUSRs.

*Article 4***Financial arrangements**

1. The financial reference amount for the implementation of this Decision for the period of 36 months following the date of conclusion of the agreement referred to in paragraph 3 shall be EUR 52 240 608,49.
2. The expenditure financed by the financial reference amount referred to in paragraph 1 shall be managed in accordance with the procedures and rules applicable to the general budget of the Union.
3. The Commission shall supervise the proper management of the expenditure referred to in paragraph 2. For that purpose, it shall conclude an agreement with the Swedish Civil Contingencies Agency as the warehouse capability operator.
4. The agreement referred to in paragraph 3 shall provide, inter alia, that:
 - (a) the equipment and assets referred to in points (a) and (b) of Article 2(1) and in Article 2(2) are to be purchased by the Swedish Civil Contingencies Agency on its own behalf and in accordance with its own procurement rules;
 - (b) the Swedish Civil Contingencies Agency is to make available equipment and assets without any cost to civilian CSDP missions, and take them back as appropriate;
 - (c) before the agreement expires, the Swedish Civil Contingencies Agency is to donate all the equipment and assets stored by it to the Commission or to any other entity designated by the Commission.
5. The Commission shall endeavour to conclude the agreement referred to in paragraph 3 as soon as possible after the entry into force of this Decision. It shall inform the Council of any difficulties in that process and of the date of conclusion of the agreement.

*Article 5***Reporting**

1. The High Representative shall report to the Council on the implementation of this Decision every six months.
2. The Commission shall provide the Council with information on the financial aspects of the functioning of the warehouse capability every six months.

*Article 6***Review**

18 months after the date of conclusion of the agreement referred to in Article 4(3), the Council shall review the financial reference amount referred to in Article 4(1) as regards the amount deemed necessary to meet requests by civilian CSDP missions, for items of equipment and assets in addition to the quantity of items stored in the strategic stock, in order to ensure that the financial reference amount takes due account of the evolving needs of such missions. The review shall also take into account the evolving needs of other operational action of the Union and of EUSRs.

*Article 7***Entry into force and expiry**

This Decision shall enter into force on the date of its adoption. It shall expire 36 months after the date of conclusion of the agreement referred to in Article 4(3), unless the Council decides to extend it for a further period of 12 months.

*Article 8***Repeal**

Decision 2012/698/CFSP is hereby repealed.

Done at Brussels, 26 April 2018.

For the Council

The President

E. ZAHARIEVA

ANNEX

KEY EQUIPMENT AND ASSETS TO BE PROVIDED BY THE WAREHOUSE CAPABILITY OPERATOR

The strategic stock comprises the key equipment and assets needed to deploy a civilian CSDP mission of up to 200 staff to any area of operation within 30 days.

The key equipment and assets are as follows:

- Vehicles
 - Sport utility vehicle ('SUV')
 - Compact SUV
 - Minibus
 - Heavy-duty 4×4
 - Sedan / station wagon
- IT equipment
 - Servers
 - Firewalls
 - Desktops
 - Laptops
 - Monitors
 - Printers, toner and drums
 - Uninterruptible power supply (UPS)
 - Wi-Fi access points
 - Computer, server and network accessories
- Communications equipment
 - Satellite phones
 - Very-high-frequency (VHF) radios
 - Global Positioning System (GPS) devices
 - Mobile phones
 - Video conferencing (VTC) systems
- Personal protection equipment (PPE)
 - Flak jackets
 - Helmets
 - Accessories
- Medical equipment
 - Trauma kits (bags with crucial items to help control trauma injuries)
 - Automatic external defibrillators (AEDs)
- Visibility items
 - Flags
 - Personal visibility items (berets, armlets, visibility vests, etc.)
 - Vehicle stickers

- Miscellaneous

- ID-card printing machine (printer for personal identification cards)
 - Barcoding equipment (barcode reader and printer of labels with barcode)

SUPPORT SERVICES TO BE PROVIDED BY THE WAREHOUSE CAPABILITY OPERATOR

- Procurement

The warehouse capability operator will procure the strategic stock on its own behalf using its own procurement rules.

- Storage, codification and barcoding of the strategic stock

- Freight forwarding

The warehouse capability operator will prepare the stored equipment for shipment.

The warehouse capability operator will be responsible for ensuring/contracting the shipping of equipment as follows:

- from the central warehouse to the CSDP mission
 - from the CSDP mission to the central warehouse
 - between CSDP missions
 - from and to the suppliers

- Enterprise resource planning (ERP) system

The warehouse capability operator will provide an ERP system with appropriate backup systems to ensure continuity of related activities/processes and will provide maintenance for the ERP system. The warehouse capability operator will provide services related to the configuration, customisation and updating of the ERP system. The warehouse capability operator will also manage all licences needed for the use of the ERP system.

- Technical maintenance and repair of new and used equipment

The warehouse capability operator will provide technical maintenance and run operational tests for both used and new equipment stored in the warehouse. The warehouse capability operator will also ensure that used equipment is repaired if instructed to do so by the Contracting Authority.

- Refurbishment of armoured vehicles

The warehouse capability operator is expected to provide servicing, refurbishment and (re-)certification for armoured vehicles, if tasked with doing so by the Contracting Authority.

- Disposal services

The warehouse capability operator will provide services related to the disposal of hazardous material (hazmat), such as batteries, vehicle lubricants, ammunition, armoured vehicles and radio equipment, that for various reasons (security, environmental, etc.) cannot be provided locally by the Mission. The warehouse capability operator will also dispose of strategic stock equipment that has become uneconomical to repair.

- Pharmaceuticals and medical consumables

The warehouse capability operator will ensure supplies of pharmaceuticals and medical consumables directly from the supplier to the authorised medical staff of the CSDP mission.

COUNCIL DECISION (CFSP) 2018/654**of 26 April 2018****amending Decision (CFSP) 2017/1869 on the European Union Advisory Mission in support of Security Sector Reform in Iraq (EUAM Iraq)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and in particular Article 28, Article 42(4) and Article 43(2) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 16 October 2017, the Council adopted Decision (CFSP) 2017/1869 ⁽¹⁾ on the European Union Advisory Mission in support of Security Sector Reform in Iraq (EUAM Iraq).
- (2) To cover the Mission's need for security services until the end of its current mandate, the financial reference amount should be revised, and Decision (CFSP) 2017/1869 should be amended accordingly.
- (3) EUAM Iraq is being conducted in a context which may deteriorate and which could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty,

HAS ADOPTED THIS DECISION:

*Article 1***Amendment of Decision (CFSP) 2017/1869**

In Article 14 of Decision (CFSP) 2017/1869, paragraph 1 is replaced by the following:

'1. The financial reference amount intended to cover the expenditure related to EUAM Iraq from 16 October 2017 to 17 October 2018 shall be EUR 17 300 000. The financial reference amount for any subsequent period shall be decided by the Council.'

*Article 2***Entry into force**

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 26 April 2018.

For the Council

The President

E. ZAHARIEVA

⁽¹⁾ Council Decision (CFSP) 2017/1869 of 16 October 2017 on the European Union Advisory Mission in support of Security Sector Reform in Iraq (EUAM Iraq) (OJ L 266, 17.10.2017, p. 12).

COUNCIL DECISION (CFSP) 2018/655
of 26 April 2018
amending Decision 2013/184/CFSP concerning restrictive measures against Myanmar/Burma

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to the proposal of the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 22 April 2013, the Council adopted Decision 2013/184/CFSP ⁽¹⁾ concerning restrictive measures against Myanmar/Burma.
- (2) On 26 February 2018, the Council adopted conclusions condemning the ongoing widespread, systematic grave human rights violations committed by the Myanmar/Burma military and security forces and calling on the Government of Myanmar/Burma and the security forces to ensure that security, the rule of law and accountability prevail in Rakhine, Kachin and Shan States. The conclusions confirmed the relevance of the existing embargo on arms and equipment which can be used for internal repression and endorsed the renewal of these restrictive measures. It also called for concrete options for the strengthening of the current embargo and for proposals for targeted restrictive measures against senior military officers of the Myanmar armed forces (Tatmadaw) responsible for serious and systematic human rights violations.
- (3) In this context it is appropriate to impose further restrictive measures on Myanmar/Burma in the form of a prohibition on the export of dual-use goods for military and Border Guard Police end users, restrictions on the export of equipment for monitoring communications that might be used for internal repression, and on military training and military cooperation.
- (4) Furthermore, targeted restrictive measures should be imposed against certain natural persons from the Myanmar Armed Forces (Tatmadaw) and the Border Guard Police responsible for serious human rights violations, for example for inciting violence, for discrimination and violence against persons belonging to minorities in Rakhine and for obstructing the voluntary and safe return process of displaced persons from Rakhine State to their place of origin, as well as against persons, entities or bodies associated with them. Targeted restrictive measures should also be imposed against certain natural persons from the Myanmar Armed Forces (Tatmadaw) and the Border Guard Police responsible for obstructing the provision of humanitarian assistance to civilians in need or responsible for obstructing the conduct of independent investigations into alleged serious human rights violations or abuses, as well as against persons, entities or bodies associated with them.
- (5) The passage of humanitarian assistance for civilians in need, subject to control by the parties to the conflict and in accordance with international humanitarian law, should not be impeded. It is thus appropriate to apply restrictions on natural persons from the Myanmar Armed Forces (Tatmadaw) responsible for obstructing the rapid and unimpeded passage of humanitarian assistance for civilians in need. Such restrictions should not unduly affect the delivery of humanitarian assistance and should be applied in full consideration of human rights law and of the applicable rules of international humanitarian law.
- (6) Decision 2013/184/CFSP should be amended accordingly.
- (7) Further action by the Union is needed in order to implement certain measures,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2013/184/CFSP is amended as follows:

- (1) the following wording is added before Article 1:

‘CHAPTER I
EXPORT RESTRICTIONS’;

⁽¹⁾ Council Decision 2013/184/CFSP of 22 April 2013 concerning restrictive measures against Myanmar/Burma and repealing Decision 2010/232/CFSP (OJ L 111, 23.4.2013, p. 75).

(2) the following Article is inserted:

‘Article 1a

1. The direct or indirect sale, supply, transfer or export of all dual-use goods and technology listed in Annex I to Council Regulation (EC) No 428/2009 (*) for military use in Myanmar/Burma, or to any military end-user or to the Border Guard Police in Myanmar/Burma by nationals of Member States or from the territories of Member States or using their flag vessels or aircraft, shall be prohibited whether originating or not in their territories.

2. It shall be prohibited:

- (a) to provide technical assistance, brokering services or other services related to goods and technology set out in paragraph 1 and to the provision, manufacture, maintenance and use of these goods and technology, directly or indirectly, to any military end-user or to the Border Guard Police in Myanmar/Burma, or for military use in Myanmar/Burma;
- (b) to provide financing or financial assistance related to goods and technology referred to in paragraph 1, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of these goods and technology, or for the provision of related technical assistance, brokering services or other services, directly or indirectly, to any military end-user or to the Border Guard Police in Myanmar/Burma, or for military use in Myanmar/Burma.

3. The prohibitions in paragraphs 1 and 2 shall be without prejudice to the execution of contracts concluded before 27 April 2018 or ancillary contracts necessary for the execution of such contracts.

(*) Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1).’;

(3) Article 2 is replaced by the following:

‘Article 2

1. Articles 1 and 1a shall not apply to:

- (a) the sale, supply, transfer or export of non-lethal military equipment, or of equipment which might be used for internal repression or dual-use goods and technology listed in Annex I to Regulation (EC) No 428/2009 intended solely for humanitarian or protective use, or for institution-building programmes of the UN and the EU, or of materiel intended for EU and UN crisis management operations;
- (b) the sale, supply, transfer or export of demining equipment and materiel for use in demining operations;
- (c) the provision of financing and financial assistance related to such equipment or to such programmes and operations;
- (d) the provision of technical assistance related to such equipment or to such programmes and operations;

on condition that such exports have been approved in advance by the relevant competent authority.

2. Article 1 and 1a shall not apply to protective clothing, including flak jackets and military helmets, temporarily exported to Myanmar/Burma by UN personnel, personnel of the EU or its Member States, representatives of the media and humanitarian and development workers and associated personnel for their personal use only.’;

(4) Article 3 is replaced by the following:

‘Article 3

1. The sale, supply, transfer or export of equipment, technology or software intended primarily for use in the monitoring or interception by the Government of Myanmar/Burma, or on its behalf, of the internet and of telephone communications on mobile or fixed networks in Myanmar/Burma, including the provision of any telecommunication or internet monitoring or interception services of any kind, as well as the provision of financial and technical assistance to install, operate or update such equipment, technology or software, by nationals of Member States or from the territories of Member States shall be prohibited.

2. By derogation from paragraph 1, Member States may authorise the sale, supply, transfer or export of the equipment, technology or software, including the provision of any telecommunication or internet monitoring or interception services of any kind, as well as the related provision of financial and technical assistance, referred to in paragraph 1 if they have reasonable grounds to determine that the equipment, technology or software would not be used for internal repression by Myanmar/Burma's government, public bodies, corporations or agencies, or any person or entity acting on their behalf or at their direction.

The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this paragraph, within four weeks of the authorisation.

3. The Union shall take the necessary measures in order to determine the relevant elements to be covered by this Article.;

(5) The following Articles and Chapters are inserted:

'CHAPTER II

RESTRICTIONS ON MILITARY TRAINING AND MILITARY COOPERATION

Article 4

1. The provision of military training to or military cooperation with the Myanmar Armed Forces (Tatmadaw) and the Border Guard Police shall be prohibited.

2. The prohibition in paragraph 1 shall not apply to training or cooperation aimed at strengthening democratic principles, the rule of law or respect for international law, including international human rights law, in Myanmar/Burma.

CHAPTER III

RESTRICTIONS ON ADMISSION

Article 5

1. Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of:

- (a) natural persons from the Myanmar Armed Forces (Tatmadaw) and the Border Guard Police responsible for serious human rights violations in Myanmar/Burma;
- (b) natural persons from the Myanmar Armed Forces (Tatmadaw) and the Border Guard Police responsible for obstructing the provision of humanitarian assistance to civilians in need;
- (c) natural persons from the Myanmar Armed Forces (Tatmadaw) and the Border Guard Police responsible for obstructing the conduct of independent investigations into alleged serious human rights violations or abuses, or
- (d) natural persons associated with the natural persons referred to in points (a), (b) and (c),

as listed in the Annex.

2. Paragraph 1 shall not oblige a Member State to refuse its own nationals entry into its territory.

3. Paragraph 1 shall be without prejudice to the cases where a Member State is bound by an obligation of international law, namely:

- (a) as a host country to an international intergovernmental organisation;
- (b) as a host country to an international conference convened by, or under the auspices of, the UN;
- (c) under a multilateral agreement conferring privileges and immunities; or
- (d) under the 1929 Treaty of Conciliation (Lateran Pact) concluded by the Holy See (State of the Vatican City) and Italy.

4. Paragraph 3 shall be considered as also applying in cases where a Member State is host country of the Organisation for Security and Cooperation in Europe (OSCE).

5. The Council shall be duly informed in all cases where a Member State grants an exemption pursuant to paragraph 3 or 4.

6. Member States may grant exemptions from the measures imposed under paragraph 1 where travel is justified on the ground of urgent humanitarian need, or on grounds of attending intergovernmental meetings and those promoted or hosted by the European Union, or hosted by a Member State holding the chairmanship in office of the OSCE, where a political dialogue is conducted that directly promotes the policy objectives of restrictive measures, including democracy, human rights and the rule of law in Myanmar/Burma.

7. A Member State wishing to grant exemptions referred to in paragraph 6 shall notify the Council in writing. The exemption shall be deemed to be granted unless one or more of the Council members raises an objection in writing within two working days of receiving notification of the proposed exemption. Should one or more of the Council members raise an objection, the Council, acting by a qualified majority, may decide to grant the proposed exemption.

8. Where, pursuant to paragraph 3, 4, 6 or 7, a Member State authorises the entry into, or transit through, its territory of persons listed in the Annex, the authorisation shall be limited to the purpose for which it is given and to the persons concerned thereby.

CHAPTER IV

FREEZING OF FUNDS AND ECONOMIC RESOURCES

Article 6

1. All funds and economic resources belonging to or owned, held or controlled by:

- (a) natural persons from the Myanmar Armed Forces (Tatmadaw) and the Border Guard Police responsible for serious human rights violations in Myanmar/Burma;
- (b) natural persons from the Myanmar Armed Forces (Tatmadaw) and the Border Guard Police responsible for obstructing the provision of humanitarian assistance to civilians in need;
- (c) natural persons from the Myanmar Armed Forces (Tatmadaw) and the Border Guard Police responsible for obstructing the conduct of independent investigations into alleged serious human rights violations or abuses; or
- (d) natural or legal persons, entities or bodies associated with the natural persons referred to in points (a), (b) and (c),

as listed in the Annex, shall be frozen.

2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities and bodies listed in the Annex.

3. The competent authority of a Member State may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as it deems appropriate, after having determined that the funds or economic resources concerned are:

- (a) necessary to satisfy the basic needs of the natural or legal persons, entities or bodies listed in the Annex and dependent family members of such natural persons, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums and public utility charges;
- (b) intended exclusively for the payment of reasonable professional fees or the reimbursement of incurred expenses associated with the provision of legal services;
- (c) intended exclusively for the payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources;
- (d) necessary for extraordinary expenses, provided that the relevant competent authority has notified the competent authorities of the other Member States and the Commission of the grounds on which it considers that a specific authorisation should be granted, at least two weeks prior to the authorisation; or
- (e) to be paid into or from an account of a diplomatic or consular mission or an international organisation enjoying immunities in accordance with international law, insofar as such payments are intended to be used for official purposes of the diplomatic or consular mission or international organisation.

The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this paragraph.

4. By way of derogation from paragraphs 1, the competent authorities of a Member State may authorise the release of certain frozen funds or economic resources if the following conditions are met:

- (a) the funds or economic resources are the subject of an arbitral decision rendered prior to the date on which the natural or legal person, entity or body referred to in paragraph 1 was listed in the Annex, or of a judicial or administrative decision rendered in the Union, or a judicial decision enforceable in the Member State concerned, prior to or after that date;
- (b) the funds or economic resources will be used exclusively to satisfy claims secured by such a decision or recognised as valid in such a decision, within the limits set by applicable laws and regulations governing the rights of persons having such claims;
- (c) the decision is not for the benefit of a natural or legal person, entity or body listed in the Annex; and
- (d) recognising the decision is not contrary to public policy in the Member State concerned.

The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this paragraph.

5. Paragraph 1 shall not prevent a natural or legal person, entity or body listed in the Annex from making a payment due under a contract or agreement that was concluded by, or an obligation that arose for, a natural or legal person, an entity or body listed in the Annex prior to the date on which such natural or legal person, entity or body was listed therein, provided that the Member State concerned has determined that the payment is not in breach of paragraph 3.

6. Paragraph 2 shall not apply to the addition to frozen accounts of:

- (a) interest or other earnings on those accounts;
- (b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to the measures provided for in paragraphs 1 and 2; or
- (c) payments due under judicial, administrative or arbitral decisions rendered in the Union or enforceable in the Member State concerned,

provided that any such interest, other earnings and payments remain subject to the measures provided for in paragraph 1.

CHAPTER V

GENERAL AND FINAL PROVISIONS

Article 7

1. The Council, acting by unanimity upon a proposal by a Member State or the High Representative of the Union for Foreign Affairs and Security Policy, shall establish and amend the list in the Annex.

2. The Council shall communicate the decision referred to in paragraph 1, including the grounds for the listing, to the natural or legal person, entity or body concerned, either directly, if the address is known, or through the publication of a notice, providing such person, entity or body with an opportunity to present observations.

3. Where observations are submitted, or where substantial new evidence is presented, the Council shall review the decision referred to in paragraph 1 and inform the natural or legal person, entity or body concerned accordingly.

Article 8

1. The Annex shall include the grounds for listing the natural and legal persons, entities and bodies referred to in Articles 5(1) and 6(1).

2. The Annex shall also contain, where available, the information necessary to identify the natural or legal persons, entities or bodies concerned. With regard to natural persons, such information may include: names, including aliases; date and place of birth; nationality; passport and identity card numbers; gender; address, if known; and function or profession. With regard to legal persons, entities or bodies, such information may include names, place and date of registration, registration number and place of business.

Article 9

It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the measures laid down in this Decision.

Article 10

No claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under this Decision, including claims for indemnity or any other claim of this type, such as a claim for compensation or a claim under a guarantee, in particular a claim for extension or payment of a bond, guarantee or indemnity, in particular a financial guarantee or financial indemnity, of whatever form, shall be satisfied, if they are made by:

- (a) designated natural or legal persons, entities or bodies listed in the Annex;
- (b) any natural or legal person, entity or body acting through or on behalf of one of the persons, entities or bodies referred to in point (a).

Article 11

In order to maximise the impact of the measures set out in this Decision, the Union shall encourage third States to adopt restrictive measures similar to those provided for in this Decision.

Article 12

This Decision shall apply until 30 April 2019. It shall be kept under constant review. It shall be renewed, or amended as appropriate, if the Council deems that its objectives have not been met.;

- (6) Articles 4 and 5 are renumbered as Articles 13 and 14 respectively;
- (7) The Annex set out in the Annex to this Decision is added.

Article 2

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 26 April 2018.

For the Council
The President
E. ZAHARIEVA

ANNEX

'ANNEX

List of natural and legal persons, entities and bodies referred to in Articles 5(1) and 6(1).

COUNCIL IMPLEMENTING DECISION (CFSP) 2018/656
of 26 April 2018
implementing Decision 2011/486/CFSP concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 31(2) thereof,

Having regard to Council Decision 2011/486/CFSP of 1 August 2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan ⁽¹⁾, and in particular Article 5 thereof,

Having regard to the proposal of the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 1 August 2011, the Council adopted Decision 2011/486/CFSP.
- (2) On 10 April 2018, the United Nations Security Council Committee, established pursuant to paragraph 30 of United Nations Security Council Resolution 1988 (2011), updated the information relating to one person subject to restrictive measures.
- (3) The Annex to Decision 2011/486/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2011/486/CFSP is hereby amended as set out in the Annex to this Decision.

Article 2

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 26 April 2018.

For the Council
The President
E. ZAHARIEVA

⁽¹⁾ OJ L 199, 2.8.2011, p. 57.

ANNEX

The entry concerning the person listed below is replaced by the following entry:

‘(83) **Mohammed Omar Ghulam Nabi**

Title: Mullah. **Grounds for listing:** Leader of the Faithful (“Amir ul- Mumineen”), Afghanistan. **Date of birth:** (a) Approximately 1966, (b) 1960, (c) 1953. **Place of birth:** (a) Naw Deh village, Deh Rawud District, Uruzgan Province, Afghanistan, (b) Maiwand District, Kandahar Province, Afghanistan. **Nationality:** Afghan. **Date of UN designation:** 12.4.2000.

Other information: Father’s name is Ghulam Nabi, also known as Mullah Musafir. Left eye missing. Brother-in-law of Ahmad Jan Akhundzada Shukoor Akhundzada. Believed to be in Afghanistan/Pakistan border area. Belongs to Hotak tribe. Review pursuant to Security Council resolution 1822 (2008) was concluded on 27 Jul. 2010. Reportedly deceased as of April 2013. INTERPOL- UN Security Council Special Notice web link: <https://www.interpol.int/en/notice/search/un/1427394>

Additional information from the narrative summary of reasons for listing provided by the Sanctions Committee:

Mohammed Omar holds the title of “Commander of the Faithful of the Islamic Emirate of Afghanistan” and is the supreme leader of the Taliban movement in the Taliban hierarchy. He sheltered Usama bin Laden (deceased) and his Al-Qaida network in the years prior to the 11 September 2001 attacks in the United States. He has been directing the Taliban against the Government of Afghanistan and their allies in Afghanistan since 2001.

Mohammed Omar commands the allegiance of other prominent military leaders in the region, such as Jalaluddin Haqqani.’

