

# U.S. Imposes Sanctions Measures Targeting Myanmar Military Government

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On February 1, 2021, the Myanmar military overthrew the country's democratically elected government and installed an army general as head of state, with a cadre of military officials and their allies running the government.

On February 10, 2021, in response to the Myanmar military coup, President Biden issued [Executive Order 14014](#) entitled, "Blocking Property With Respect to the Situation in Burma" (E.O. 14014 or the E.O.).<sup>[1]</sup> That E.O. targets members of the Myanmar military and government, and threatens sanctions on parties that provide support to persons and entities sanctioned under the E.O.

On March 8, 2021, the U.S. Department of Commerce, Bureau of Industry and Security (BIS) added four Myanmar entities to [the U.S. Entity List](#). BIS also moved Myanmar from Country Group B, subject to lesser export controls, to Country Group D:1, subject to significant export restrictions. Finally BIS imposed Military End User restrictions on Myanmar (see [here](#)).

Currently, there is little U.S. trade with, or direct foreign investment in, Myanmar. However, the sanctions may create risks for Asian businesses that have slowly reentered Myanmar in the past decade as the country opened up under democratic rule. As with many U.S. sanctions, the jurisdictional reach of the U.S. dollar will create the greatest exposure to foreign financial institutions dealing with Myanmar.

Additionally, the European Union has added sanctions on Myanmar in response to the military coup.

## Scope of E.O. 14014

The E.O. authorizes sanctions on foreign persons determined to:

1. Operate in the defense sector of the Burmese economy, or any other sector of the economy;

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2. Be responsible for or complicit in, or to have engaged or attempted to engage in actions or policies that undermine democracy in Burma; threaten its peace stability or security; limit or penalize the exercise of freedom of expression or assembly; limit or penalize access to print, online, or broadcast media; or the arbitrary detention or torture or serious human rights abuses of any other person;
  3. Be a leader or official of the military or security forces of Burma or its Government on or after February 2, 2021;
  4. Be a political subdivision, agency, or instrumentality of the Government of Burma, including the Central Bank of Myanmar;
  5. Be a spouse or child of anyone whose property is blocked pursuant to the E.O.;
  6. Have materially assisted sponsored, or provided financial, material, or technological support for, or goods or services to or in support of anyone whose property is blocked pursuant to the E.O.; and
  7. Be owned or controlled by, or have acted on behalf of the military or security forces of Burma or anyone whose property is blocked pursuant to the E.O.

## **Designations under the E.O.**

Since the issuance of the E.O., the Treasury Department, in consultation with the State Department, has designated individuals and entities that have played a role in the coup or are closely associated with the current Myanmar Government.<sup>[2]</sup> In particular, the designated entities are those in Myanmar's gem industry that are controlled by the military, which include: (1) Myanmar Ruby Enterprise; (2) Myanmar Imperial Jade Co. LTD; and (3) Cancri (Gems and Jewellery) Co., LTD.

To date, the Treasury Department has taken a narrow approach to its designations – targeting only those individuals and entities with close links to the Myanmar government. However, the E.O. grants broad discretion to the Treasury Department to designate entities outside the military context. Thus, it is advisable for companies to periodically monitor the designations for potential impacts on business dealings in Myanmar.

## **Myanmar Entities Placed on the Entity List**

As noted above, BIS found four Myanmar entities to be acting contrary to U.S. national security or foreign policy interests, and placed them on the Entity List. The entities include the following:

1. Ministry of Defense;
2. Ministry of Home Affairs;
3. Myanmar Economic Corporation; and
4. Myanmar Economic Holdings Limited.

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As a result of their placement on the Entity List, BIS will review license applications under a “presumption of denial” (i.e., BIS will likely deny any license application) for export of items controlled under the U.S. Export Administration Regulations (the EAR) destined to one of those entities. Additionally, no license exceptions will be available for the listed entities.

## **Myanmar Listed Under Country Group D:1**

Per BIS’ March 8, 2021 rule, Myanmar was moved from Country Group B to the more restrictive Country Group D:1 for export control purposes. In effect, the designation removes the possibility of using certain license exceptions for exports to Myanmar or imposes conditions on the use of those exceptions.

## **Myanmar Subject to Military End Use and Military End User Restrictions**

The BIS rule adds Myanmar to the countries subject to the “military end user” and “military end user” (“MEU”) restrictions. As with the MEU restrictions in place on China, Russia, and Venezuela, no person may export [a wide range of items](#) controlled under the EAR to Myanmar if the person knows or has reason to know that the item is intended, entirely or in part, for a “military end user” or a “military end-use.” License applications for MEUs will be reviewed under a “presumption of denial.”

## **European Union Reaction: New restrictive measures to come**

On February 22, the Council of the EU adopted conclusions condemning the Myanmar military coup and announced that “*the European Union stands ready to adopt restrictive measures targeting those directly responsible.*”

The EU continues to maintain strict restrictive measures against Myanmar pursuant to Council Decision 2013/184/CFSP and Council Regulation (EU) No 401/2013. Both authorities provide for the following restrictive measures:

- Arms embargo
- Restrictions on the export of :
  - Dual-use goods and technology (and related services) if those are or may be intended for military use, military end-user or the Border Guard Police
  - Equipment (and related services) that may be used for internal repression in Myanmar
  - Telecommunications monitoring and interception equipment, technology and software as listed in Annex III of Council Regulation (EU) 401/2013
- Asset freezes of persons and entities listed in Annex IV of Council Regulation (EU) 401/2013
- Travel Restrictions for persons listed in Annex IV of Council Regulation (EU) 401/2013

On 23 April 2020, the Council decided to renew restrictive measures against Myanmar until 30 April

2021. Another 1-year renewal is expected to be voted on soon, along with new restrictive measures targeting the military junta

## Conclusion

The military government continues to rule Myanmar and, as of the date of this publication, has responded to protests with lethal attacks on unarmed civilians. It appears likely that the U.S. Government will maintain or increase its restrictions on Myanmar in an effort to cut off the military rulers and pressure them to reinstate the democratically elected Myanmar government.

## FOOTNOTES

<sup>[1]</sup> See Executive Order 14014 (Feb. 10, 2021), available here: <https://www.federalregister.gov/documents/2021/02/12/2021-03139/blocking-property-with-respect-to-the-situation-in-burma>.

<sup>[2]</sup> See U.S. Department of Treasury, *United States Targets Leaders of Burma's Military Coup Under New Executive Order* (Feb. 11, 2021), available at: <https://home.treasury.gov/news/press-releases/jy0024>.

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