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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
To: Delegations

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Subject: Myanmar/Burma
- Council conclusions (26 February 2018)

Delegations will find in the annex the Council conclusions on Myanmar/Burma as adopted by the Council at its 3598th meeting held on 26 February 2018.

Council conclusions on Myanmar/Burma

1. The Council took stock of the situation in Myanmar/Burma, in particular in Rakhine State, which remains extremely serious. The Council condemns ongoing widespread, systematic grave human rights violations committed by Myanmar/Burma military and security forces, including rape and killings. It also reiterates its condemnation of attacks by the Arakan Rohingya Salvation Army (ARSA) and other militant groups.
2. More than 680 000 people, mostly Rohingya, fled their homes in Rakhine State and sought refuge in Bangladesh. The EU commends Bangladesh for sheltering these people and will continue to provide humanitarian and other assistance, in line with its longstanding engagement and its pledges during the donor conference that it co-hosted in Geneva on 23 October 2017.
3. Recalling priority issues set out in its conclusions of 16 October 2017, the EU deplors the fact that continued human rights violations, a climate of fear, insecurity, impunity and lack of rule of law continue to prevail in Rakhine State resulting in further, albeit smaller, refugee flows to Bangladesh and that humanitarian and development as well as media access to Rakhine State remains restricted. The EU stresses the importance of the roadmap established by the UNSC Presidential Statement of 6 November 2017 for the resolution of the crisis and will continue to raise the issue with the UN and key international stakeholders
4. The EU welcomes the signature by the governments of Myanmar/Burma and Bangladesh of an "Arrangement on return of displaced persons from Rakhine" (23 November 2017) and of a "Physical arrangement for repatriation of displaced Myanmar residents from Bangladesh" (16 January 2018) as very important first steps to address the ongoing refugee crisis. The EU invites both parties to fully associate the UNHCR with the process and to allow independent monitoring in order to ensure an effective implementation of these arrangements in accordance with international law.

5. The EU urges Myanmar/Burma to create conditions for voluntary, safe and dignified return of displaced persons to their places of origin. Particular attention needs to be placed on the increased protection needs of female-headed households, victims of sexual and gender based violence and children, including unaccompanied minors and orphans. In this context, the Government of Myanmar/Burma should carry out a rigorous needs assessment in Rakhine State and establish a time-bound Action Plan regarding the full implementation of the recommendations of the Advisory Commission on Rakhine State to improve the living conditions and human rights situation there, including addressing the issue of physical security, statelessness and discrimination against the Rohingya. Returnees' access to appropriate shelter, services and livelihoods is crucial, along with providing proper rehabilitation for victims, in particular children and women and will require easing of the current restrictions on Rakhine State. The EU welcomes the intention expressed by the Government of Myanmar/Burma to undertake steps towards closing IDP camps in central Rakhine State and underlines the importance of an inclusive, transparent and consultative process in accordance with international standards. Myanmar/Burma should refrain from setting up new IDP camps for returnees from Bangladesh.

6. While noting the admission of some extrajudicial killings by the Myanmar military, the EU expects the Government of Myanmar/Burma and the armed forces to allow credible and independent investigations into alleged serious and systematic human rights violations as reported by various UN bodies, the UN Human Rights Council (HRC)'s Fact-Finding Mission and international human rights organisations. Perpetrators of such crimes must be brought to justice without delay. In line with relevant resolutions of the UN General Assembly Third Committee (16 November 2017) and the HRC (5 December 2017), the EU reiterates its calls on the Government of Myanmar/Burma to cooperate with the HRC's Fact-Finding Mission and to allow it full access to Myanmar in order to be able to investigate properly, taking also into account views of all communities of Rakhine State.

7. The EU strongly regrets the fact that Myanmar/Burma decided on 20 December 2017 to discontinue its cooperation with the UN Special Rapporteur on human rights in Myanmar. The EU fully supports the UN Special Rapporteur and calls on the Government of Myanmar/Burma to reverse its decision. Given the gravity of the alleged crimes against humanity the EU invites Myanmar/Burma to become a party to the Rome Statute or to accept the exercise of jurisdiction of the International Criminal Court in accordance with Article 12 (3) of the Rome Statute.
8. The EU also reiterates its concern about the continued deterioration of the human rights and security situation in Kachin and Shan States, with increased fighting, reports of civilian casualties and more than 100.000 internally displaced persons (IDPs), many of them extremely vulnerable.. The EU recalls that all parties to the conflict must facilitate rapid and unimpeded humanitarian access to civilians in need.
9. The EU looks forward to the 4th session of the EU-Myanmar Human Rights Dialogue led for the EU by its Special Representative for Human Rights and envisaged for 5 March 2018 in order to discuss issues related to the respect of human rights and fundamental freedoms, including freedom of expression and media, the situation in Rakhine, Kachin and Shan States and cooperation of Myanmar/Burma with UN human rights mechanism and special procedures.

10. The EU and its Member States reconfirm their strong engagement in support of Myanmar/Burma's democratic transition, peace and national reconciliation process and inclusive socio-economic development. In this context, the EU stands ready to i) step up its humanitarian assistance, as needed; ii) further operationalise the humanitarian and development nexus, with focus on equal access to basic social services as well as on reconstruction, service infrastructure and rehabilitation of livelihoods in Rakhine State and other conflict-affected areas; iii) support the implementation of the recommendations of the Advisory Committee on Rakhine State; and iv) continue its support to the peace and national reconciliation process and to ongoing reforms, including in the education sector. A strong role for the UNHCR in the refugee repatriation process and the tackling of the root causes by the Government of Myanmar/Burma, are essential for addressing the Rohingya crisis in a sustainable manner.
11. The EU calls 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. In light of the disproportionate use of force and widespread and systematic grave human rights violations committed by the military and security forces including sexual and gender based violence and killings and the continuous climate of impunity, fear and insecurity in Rakhine State, the Council confirms the relevance of the existing embargo on arms and equipment which can be used for internal repression and invites the High Representative to make a proposal for the extension thereof and to present concrete options for its strengthening without delay. As regards practical defence cooperation with Myanmar/Burma, the EU and its Member States intend to reduce it to the strict minimum with the sole purpose of strengthening democratic principles, the respect of human rights and the rule of law.
12. The Council invites the High Representative to make proposals for targeted restrictive measures against senior military officers of the Myanmar armed forces (Tatmadaw) responsible for serious and systematic human rights violations without delay.

13. The Council recalls that the respect of human rights and fundamental freedoms is a crucial part of the EU's trade policy and underpins the granting of trade preferences to Myanmar under "Everything But Arms" (EBA). The Council invites the Commission to continue monitoring the situation and to step-up engagement with Myanmar in light of the provisions of Regulation (EU) No. 978/2012.
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