VERŻJONI ELETTRONIKA

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,254, 20 ta' Mejju, 2014
Taqsima B

A.L. 173 tal-2014

ATT DWAR POTERI LI JSIRU REGOLAMENTI FL-INTERESS NAZZJONALI (KAP. 365)

Regolamenti tal-2014 dwar l-Infurzar ta' Sanzjonijiet tal-Unjoni Ewropea (Repubblika Demokratika tal-Congo)

BIS-SAĦĦA tas-setgħat mogħtija bl-artikolu 3(2) tal-Att dwar Poteri li jsiru Regolamenti fl-Interess Nazzjonali, il-Prim Ministru għamel dawn ir-regolamenti li ġejjin:-

Titolu.

1. It-titolu ta' dawn ir-regolamenti hu r-Regolamenti tal-2014 dwar l-Infurzar ta' Sanzjonijiet tal-Unjoni Ewropea (Repubblika Demokratika tal-Congo).

Tifsir.

2. F'dawn ir-regolamenti, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'oħra -

Kap. 365.

"l-Att" tfisser l-Att dwar Poteri li jsiru Regolamenti fl-Interess Nazzjonali;

"ir-Regolamenti tal-Kunsill" tfisser ir-Regolamenti tal-Kunsill imsemmi fir-regolament 3, kif ukoll kwalunkwe emenda jew revoka li tista' issir għal dawn l-istess Regolamenti;

L.S. 365.08

"il-Bord ta' Sorveljanza" tfisser il-Bord imwaqqaf taħt ir-regolament 2 tar-Regolamenti dwar Bord ta' Sorveljanza dwar is-Sanzjonijiet;

Kap. 460.

"it-Trattat" tfisser it-Trattat imsemmi fl-artikolu 2 tal-Att dwar l-Unjoni Ewropea.

Testi tar-Regolament tal-Kunsill Ewropew (KE). Nru. 889/2005 u tar-Regolament tal-Kunsill Ewropew (KE) Nru. 1183/2005.

3. Dawn ir-regolamenti japplikaw għar-Regolamenti tal-Kunsill li ġejjin:

(*a*) ir-Regolament tal-Kunsill Ewropew (KE) Nru. 889/2005 tat-13 ta' Ġunju, 2005 li jimponi ċerti miżuri restrittivi fir-rigward tar-Repubblika Demokratika tal-Kongo, u li jħassar ir-Regolament tal-Kunsill Ewropew (KE) Nru. 1727/2003, (kif emendat); u

(*b*) ir-Regolament tal-Kunsill Ewropew (KE) Nru. 1183/2005 tat-18 ta' Lulju, 2005, li jimponi ċerti miżuri restrittivi speċifiċi diretti kontra persuni li jaġixxu bi ksur għall-embargo tal-armi fir-rigward tar-Repubblika Demokratika tal-

li t-testi tagħhom fl-ilsien Ingliż jidhru fl-iSkeda li tinsab ma' dawn ir-regolamenti.

Appikabilità tal-Att dwar l-Unjoni Ewropea. Kap. 460.

4. Għall-fini tal-artikolu 3 tal-Att dwar l-Unjoni Ewropea, dawn ir-Regolamenti tal-Kunsill jorbtu kollha kemm huma fuq Malta u għandhom ikunu parti mil-liġi tal-pajjiż skont il-kondizzjonijiet imsemmijin fit-Trattat.

Notifikazzjoni dwar l-iffriżar tal-attiv.

5. (1) Meta xi dispożizzjoni ta' xi regolament magħmul taħt l-Att tkun teħtieġ lil xi persuna jew lil xi entità oħra twettaq l-identifikazzjoni ta' flejjes jew attiv li jappartjenu lil jew li jkunu fil-pussess ta' persuni jew entitajiet li jistgħu jiġu identifikati jew li jkunu identifikabbli taħt dawn ir-regolamenti jew l-iffriżar jew l-ibblukkar ta' dawk il-flejjes jew attiv, dik il-persuna jew entità għandha mingħajr ebda dewmien tavża bil-miktub kull informazzjoni rilevanti li jista' jkollha dwar persuni, entitajiet, attiv jew flejjes milquta b'dawn ir-regolamenti lill-Bord ta' Sorveljanza, jew lil dik l-awtorità pubblika oħra li tista' tiġi ordnata b'kull liġi oħra.

Kap. 377.

(2) L-iżvelar ta' kull informazzjoni fl-ambitu tal-pattijiet u tal-ħtiġiet ta' dan ir-regolament ma għandux jikkostitwixxi ksur tal-Att dwar Segretezza Professjonali, meta dan ikun japplika, jew ta' kull obbligu ieħor ta' konfidenzjalità li joħroġ minn xi kuntratt jew minn xi liġi oħra.

Kap. 9.

(3) Kull min jonqos milli jħares id-dispożizzjonijiet tas-subregolament (1) ikun ħati ta' reat bħal ma hemm imsemmi fl-artikolu 4 tal-Kodiċi Kriminali.

Responsabbiltà ta' korp magħqud.

6. (1) Meta reat kontra xi dispożizzjoni tar-Regolamenti tal-Kunsill, li dawn ir-regolamenti japplikaw għalihom, jew kontra dawn ir-regolamenti, isir minn korp ta' persuni (sew jekk dak il-korp ikun inkorporat jew le), kull persuna li, fiż-żmien tal-għemil tar-reat, kienet direttur, *manager*, segretarju jew uffiċjal ieħor simili ta' dak il-korp jew għaqda, jew kienet tidher li qed taġixxi f'dik il-kariga, tkun ħatja ta' reat kemm-il darba ma tippruvax li r-reat ikun sar mingħajr it-tagħrif tagħha u li tkun eżerċitat d-diligenza kollha xierqa biex ma tħallix illi jsir ir-reat.

Kap. 9.

(2) Meta l-persuna misjuba ħatja ta' reat taħt dawn ir-regolamenti jkun uffiċjal ta' korp magħqud bħal ma hemm imsemmi fl-artikolu 121D tal-Kodiċi Kriminali jew tkun persuna li jkollha setgħa ta' rappreżentanza jew li jkollha dik l-awtorità bħal ma hemm imsemmi f'dak l-artikolu u r-reat li dik il-persuna tkun instabet ħatja tiegħu jkun sar għall-benefiċċju, f'parti jew kollu kemm hu, ta' dak il-korp magħqud, dik il-persuna għandha għall-finijiet ta' dawn ir-

regolamenti titqies bħala li hi vestita bir-rappreżentanza legali tal-istess korp magħqud li għandu jkun responsabbli għall-ħlas ta' multa ta' mhux inqas minn ħamest elef euro (€5,000) u mhux iżjed minn mija u sittax-il elf erba'mija u tmienja u sittin euro (€116,468).

Piena.

7. Meta persuna tagħmel reat kontra xi dispożizzjoni tar-Regolamenti tal-Kunsill, li dawn ir-regolamenti japplikaw għalihom, jew kontra dawn ir-regolamenti,dik il-persuna teħel, meta tinstab ħatja, priġunerija għal żmien minn tnax-il xahar sa ħames snin jew multa ta' mhux iżjed minn mija u sittax-il elf erba' mija u tmienja u sittin euro (€116,468), jew ta' priġunerija u multa flimkien.

SKEDA

(Regolament 3)

COUNCIL REGULATION (EC) No 889/2005
of 13 June 2005
imposing certain restrictive measures in respect of the Democratic Republic of Congo and repealing Regulation (EC) No 1727/2003

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Common Position 2005/440/CFSP of 13 June 2005 concerning restrictive measures against the Democratic Republic of Congo*

Having regard to the proposal from the Commission,

Whereas:

(1) Council Common Position 2002/829/CFSP of 21 October 2002 on the supply of certain equipment into the Democratic Republic of Congo** imposed an embargo on the supply of arms and related materiel to the Democratic Republic of the Congo ('DRC').

(2) On 28 July 2003 the United Nations Security Council decided in its Resolution 1493 (2003) ('UNSCR 1493 (2003)') to impose an embargo on the supply of arms and related materiel as well as the provision of assistance, advice or training related to military activities to all armed groups and militias operating in the territory of North and South Kivu and of Ituri, and to groups not party to the Global and All-inclusive agreement, in the DRC.

(3) Common Position 2003/680/CFSP provides for the alignment of Common Position 2002/829/CFSP with the measures set out by UNSCR 1493 (2003). Some of these measures have been implemented at Community level by Council Regulation (EC) No 1727/2003***

(4) In view of the continuing illicit flow of weapons within and into the DRC, the UN Security Council, acting under Chapter VII of the Charter of the United Nations, adopted Resolution 1596 (2005) of 18 April 2005 ('UNSCR 1596 (2005)') which, *inter alia*, extends the existing arms embargo to any recipient in

*See page 22 of the Official Journal dated 15.06.2005.

**OJ L 285, 23.10.2002, p. 1. Common Position as amended by Common Position 2003/680/CFSP (OJ L 249, 1.10.2003, p. 64).

***OJ L 249, 1.10.2003, p. 5. Regulation as amended by Commission Regulation 1567/2004 (OJ L 285, 4.9.2004, p. 10).

the territory of the DRC. UNSCR 1596 (2005) provides for certain exemptions to the embargo.

(5) Common Position 2005/440/CFSP confirms the embargo and ban on the provision of related assistance of Common Position 2002/829/CFSP and provides for an additional exemption to the arms embargo and the ban on the provision of related assistance in order to bring the list of exemptions in line with UNSCR 1596 (2005).

(6) The prohibition on providing technical and financial assistance related to military activities falls within the scope of the Treaty. In order to avoid any distortion of competition, Community measures are therefore necessary to implement that prohibition as far as the Community is concerned.

(7) For the purpose of this Regulation, the territory of the Community should be deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in the Treaty.

(8) For reasons of expediency, the Commission should be empowered to amend the Annex to this Regulation.

(9) In order to ensure that the measures provided for in this Regulation are effective, this Regulation should enter into force on the day of its publication.

(10) For the sake of clarity, Regulation (EC) No 1727/2003 should be replaced by this new Regulation containing all the relevant provisions regarding the prohibition on providing technical and financial assistance related to military activities in the DRC,

HAS ADOPTED THIS REGULATION:

Article 1

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

1. ‘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; technical assistance also includes verbal forms of assistance;

2. ‘Sanctions Committee’ means the Committee of the Security Council of the United Nations which was established pursuant to paragraph 8 of UNSCR 1533 (2004).

Article 2

It shall be prohibited:

(a) to grant, sell, supply or transfer technical assistance related to military activities directly or indirectly to any person, entity or body in, or for use in the DRC;

(b) to provide financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of arms and related materiel, or for any grant, sale, supply, or transfer of related technical assistance and other services, directly or indirectly to any person, entity or body in, or for use in the DRC;

(c) to participate, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to in points (a) and (b).

Article 3

1. By way of derogation from Article 2, the competent authority, as set out in the Annex, of the Member State where the service provider is established, may authorise:

(a) the provision of technical assistance, financing and financial assistance related to arms and related materiel intended solely for support of and use by the United Nations Organisation Mission in the DRC (‘MONUC’);

(b) the provision of technical assistance, financing and financial assistance related to arms and related materiel intended solely for support of or use by units of the army and police of the DRC, provided that the said units:

(i) have completed the process of their integration, or

(ii) operate under the command, respectively, of the ‘état-major intégré’ of the Armed Forces or of the National Police of the DRC, or

(iii) are in the process of their integration, in the territory of the DRC outside the provinces of North and South Kivu and the Ituri district.

(c) the provision of technical assistance, financing and financial assistance related to non-lethal military equipment intended solely for humanitarian or protective use, where the provision of such assistance or services has been notified in advance to the Sanctions Committee.

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2. No authorisations shall be granted for activities that have already taken place.

Article 4

The Commission and Member States shall immediately inform each other of the measures taken under this Regulation and shall supply each other with any other relevant information at their disposal in connection with this Regulation, in particular information in respect of violation and enforcement problems and judgments handed down by national courts.

Article 5

1. The Commission shall be empowered to amend the Annex on the basis of information supplied by Member States.

2. Without prejudice to the rights and obligations of the Member States under the Charter of the United Nations, the Commission shall maintain all necessary contacts with the Sanctions Committee for the purpose of the effective implementation of this Regulation.

Article 6

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties laid down must be effective, proportionate and dissuasive.

Member States shall notify those rules to the Commission without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment thereof.

Article 7

This Regulation shall apply

(a) within the territory of the Community, including its airspace and on board any aircraft or any vessel under the jurisdiction of a Member State;

(b) to any person inside or outside the territory of the Community who is a national of a Member State;

(c) to any legal person, group or entity which is incorporated or constituted under the law of a Member State;

(d) to any legal person, group or entity doing business within the Community.

Article 8

Regulation (EC) No 1727/2003 is hereby repealed.

Article 9

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 Luxembourg, 13 June 2005.

For the Council
The President
J. ASSELBORN

ANNEX

List of competent authorities referred to in Article 3(1)

BELGIUM

Ministerie van het Brussels Hoofdstedelijk Gewest/Ministère de la Région de Bruxelles - Capitale
Directie Externe Betrekkingen/Direction des Relations extérieures
City Center
Kruidtuinlaan/Boulevard du Jardin Botanique 20
B-1035 Brussel/Bruxelles
Téléphone: (32-2) 800 37 59 (Cédric Bellemans)
Fax: (32-2) 800 38 20
cbellemans@mrbc.irisnet.be

Région wallonne:
Cabinet du Ministre-Président du Gouvernement wallon
Rue Mazy, 25-27
B-5100 Jambes-Namur
Téléphone: (32-81) 33 12 11
Fax: (32-81) 33 13 13

Vlaams Gewest:
Administratie Buitenlands Beleid
Boudewijnlaan 30
B-1000 Brussel

Tel. (32-2) 553 59 28
Fax: (32-2) 553 60 37

CZECH REPUBLIC
Ministerstvo prumyslu a obchodu
Licencní správa
Na Františku 32
110 15 Praha 1
Tel. + 420 2 24 06 27 20
Tel. + 420 2 24 22 18 11

Ministerstvo financí
Financní analytický útvar
P.O. BOX 675
Jindrišská 14
111 21 Praha 1
Tel. + 420 2 5704 4501
Fax + 420 2 5704 4502

Ministerstvo zahranicních vecí
Odbor Spolecné zahranicní a bezpecnostní politiky EU
Loretánské nám. 5
118 00 Praha 1
Tel. + 420 2 2418 2987
Fax + 420 2 2418 4080

DENMARK
Erhvervs- og Byggestyrelsen
Langelinie Allé 17
DK-2100 København Ø
Tlf. (45) 35 46 62 81
Fax (45) 35 46 62 03

Udenrigsministeriet
Asiatisk Plads 2
DK-1448 København K
Tlf. (45) 33 92 00 00
Fax (45) 32 54 05 33

Justitsministeriet
Slotsholmsgade 10
DK-1216 København K
Tlf. (45) 33 92 33 40
Fax (45) 33 93 35 10

GERMANY
Concerning financing and financial assistance:
Deutsche Bundesbank
Servicezentrum Finanzsanktionen
Postfach
D-80281 München
Tel. (49) 89 28 89 38 00
Fax (49) 89 35 01 63 38 00

Concerning technical assistance:
Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA)
Frankfurter Straße 29-35
D-65760 Eschborn
Tel. (49) 61 96 908-0
Fax (49) 61 96 908-800

ESTONIA
Eesti Välisministeerium
Islandi väljak 1
15049 Tallinn
Tel.: + 372 6317 100
Faks: + 372 6317 199

GREECE
Ministry of Economy and Finance
General Directorate for Policy Planning and Management
Address Kornarou Str.
105 63 Athens
Τηλ.: + 30 210 3286401-3
Φαξ: + 30 210 3286404

Υπουργείο Οικονομίας και Οικονομικών
Γενική Δ/νση Σχεδιασμού και Διαχείρισης Πολιτικής
Δ/νση: Κορνάρου 1,
Τ.Κ. 101 80 Αθήνα — Ελλάς
Τηλ.: + 30 210 3286401-3
Φαξ: + 30 210 3286404

SPAIN
Ministerio, de Industria Turismo y Comercio
Secretaría General de Comercio Exterior
Paseo de la Castellana, 162
E-28046 Madrid
Tel. (34) 913 49 38 60
Fax (34) 914 57 28 63

FRANCE
Ministère de l'économie, des finances et de l'industrie
Direction générale des douanes et des droits indirects
Cellule embargo - Bureau E2
Tél.: (33) 1 44 74 48 93
Télécopie: (33) 1 44 74 48 97

Direction générale du Trésor et de la politique économique
Service des affaires multilatérales et du développement
Sous-direction Politique commerciale et investissements
Service Investissements et propriété intellectuelle
139, rue du Bercy
F-75572 Paris Cedex 12
Tél.: (33) 1 44 87 72 85
Télécopie: (33) 1 53 18 96 55

Ministère des affaires étrangères
Direction générale des affaires politiques et de sécurité
Direction des Nations unies et des organisations internationales
Sous-direction des affaires politiques
Tél.: (33) 1 43 17 59 68
Télécopie: (33) 1 43 17 46 91
Service de la politique étrangère et de sécurité commune
Tél.: (33) 1 43 17 45 16
Télécopie: (33) 1 43 17 45 84

IRELAND
United Nations Section
Department of Foreign Affairs,
Iveagh House
79-80 Saint Stephen's Green
Dublin 2
Tel. + 353 1 478 0822
Fax + 353 1 408 2165

Central Bank and Financial Services Authority of Ireland
Financial Markets Department
Dame Street
Dublin 2
Tel. + 353 1 671 6666
Fax + 353 1 679 8882

ITALY
Ministero degli Affari Esteri
Piazzale della Farnesina, 1
I-00194 Roma
D.G.A.S. - Ufficio III

Tel. (39) 06 3691 8221
Fax (39) 06 3691 5296
U.A.M.A.
Tel. (39) 06 3691 3605
Fax (39) 06 3691 8815

CYPRUS
Ministry of Commerce, Industry and Tourism
6 Andrea Araouzou
1421 Nicosia
Tel.: + 357 22 86 71 00
Fax: + 357 22 31 60 71

Central Bank of Cyprus
80 Kennedy Avenue
1076 Nicosia
Tel.: + 357 22 71 41 00
Fax: + 357 22 37 81 53

Ministry of Finance (Department of Customs)
M. Karaoli
1096 Nicosia
Tel. + 357 22 60 11 06
Fax + 357 22 60 27 41/47

LATVIA
Latvijas Republikas Arlietu ministrija
Brivibas iela 36
Riga LV 1395
Talr. Nr.: (371) 7016 201
Fakss: (371) 7828 121

LITHUANIA
Ministry of Foreign Affairs
Security Policy Department
J. Tumo-Vaizganto 2
LT-01511 Vilnius
Tel. + 370 5 2362516
Fax + 370 5 2313090

LUXEMBOURG
Ministère de l'économie et du commerce extérieur
Office des licences
BP 113
L-2011 Luxembourg

Tél.: (352) 478 23 70
Fax: (352) 46 61 38
mail: office.licences@mae.etat.lu

Ministère des affaires étrangères et de l'immigration
Direction des affaires politiques
5, rue Notre-Dame
L- 2240 Luxembourg
Tél.: (352) 478 2421
Fax: (352) 22 19 89

HUNGARY
Ministry of Economic Affairs and Transport - Hungarian Trade Licencing
Office Margit krt. 85.
H-1024 Budapest
Hungary
Postbox: H-1537 Budapest Pf.: 345
Tel. + 36-1-336-7327

Gazdasági és Közlekedési Minisztérium - Magyar Kereskedelmi Engedélyezési
Hivatal
Margit krt. 85.
H-1024 Budapest
Magyarország
Postafiók: 1537 Budapest Pf.: 345
Tel. + 36-1-336-7327

MALTA
Bord ta' Sorveljanza dwar is-Sanzjonijiet
Direttorat ta' l-Affarijiet Multilaterali
Ministeru ta' l-Affarijiet Barranin
Palazzo Parisio
Triq il-Merkanti
Valletta CMR 02
Tel. + 356 21 24 28 53
Fax + 356 21 25 15 20

NETHERLANDS
Ministerie van Economische Zaken
Belastingdienst/Douane Noord
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8004 De Zwolle
Telefoon: (31-38) 467 25 41
Telefax: (31-38) 469 52 29

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AUSTRIA
Bundesministerium für Wirtschaft und Arbeit
Abteilung C2/2 (Ausfuhrkontrolle)
Stubenring 1
A-1010 Wien
Tel. (+ 43-1) 711 00-0
Fax (+ 43-1) 711 00-8386

POLAND
Organ koordynujacy:
Ministerstwo Spraw Zagranicznych
Departament Prawno-Traktatowy
Al. J. Ch. Szucha 23
00-580 Warszawa
Polska
tel.: (+ 48 22) 523 94 27 lub 93 48
fax: (+ 48 22) 523 83 29

Organy wspólpracujace:
Ministerstwo Obrony
Departament Prawny
ul. Klonowa 1
00-909 Warszawa
Polska
tel.: (+ 48 22) 687 15 84
fax: (+ 48 22) 687 16 97

Ministerstwo Gospodarki i Pracy
Departament Kontroli Eksportu
Plac Trzech Krzyzy 3/5
00-507 Warszawa
Polska
tel.: (+ 48 22) 693 51 71
fax: (+ 48 22) 693 40 33

PORTUGAL
Ministério dos Negócios Estrangeiros
Direcção-Geral dos Assuntos Multilaterais
Largo do Rilvas
P-1350-179 Lisboa
Tel. (351) 21 394 60 72
Fax (351) 21 394 60 73

Ministério das Finanças
Direcção-Geral dos Assuntos Europeus e Relações Internacionais
Avenida Infante D. Henrique, n.
P-1100 Lisboa

Tel. (351) 21 882 3390/8
Fax (351) 21 882 3399

SLOVENIA
Ministrstvo za zunanje zadeve
Prešernova 25
SI-1000 Ljubljana
Tel. 00386 1 4782000
Faks: 00386 1 4782341

Ministrstvo za gospodarstvo
Kotnikova 5
SI-1000 Ljubljana
Tel. 00386 1 4783311
Faks: 00386 1 4331031

Ministrstvo za obrambo
Kardeljeva pl. 25
SI-1000 Ljubljana
Tel. 00386 1 4712211
Faks: 00386 1 4318164

SLOVAKIA
Ministerstvo hospodárstva Slovenskej republiky
Mierová 19
827 15 Bratislava 212
Tel.: 00421/2/4854 1111
Fax: 00421/2/4333 7827

Ministerstvo financií Slovenskej republiky
Štefanovicova 5
P.O. BOX 82
817 82 Bratislava
Tel.: 00421/2/5958 1111
Fax: 00421/2/5249 8042

FINLAND
Ulkoasiainministeriö/Utrikesministeriet
PL/PB 176
FIN-00161 Helsinki/Helsingfors
P./Tfn (358-9) 16 00 5
Faksi/Fax (358-9) 16 05 57 07

Puolustusministeriö/Försvarsministeriet
Eteläinen Makasiinikatu 8 / Södra Magasinsgatan 8
FIN-00131 Helsinki/Helsingfors
PL/PB 31

P./Tfn (358-9) 16 08 81 28
Faksi/Fax (358-9) 16 08 81 11

SWEDEN
Inspektionen för strategiska produkter (ISP)
Box 70 252
107 22 Stockholm
Tfn (46-8) 406 31 00
Fax (46-8) 20 31 00

UNITED KINGDOM
Sanctions Licensing Unit
Export Control Organisation
Department of Trade and Industry
4 Abbey Orchard Street
London SW1P 2HT
Tel. (44) 20 7215 0594
Fax (44) 20 7215 0593

EUROPEAN COMMUNITY
Commission of the European Communities
Directorate-General for External Relations
Directorate Common Foreign and Security Policy (CFSP) and European Security and Defence Policy (ESDP): Commission Coordination and contribution
Unit A.2: Legal and institutional matters, CFSP Joint Actions, Sanctions, Kimberley Process
CHAR 12/163
B-1049 Bruxelles/Brussel
Tel. (32-2) 296 25 56
Fax (32-2) 296 75 63
E-mail: Relex-Sanctions@cec.eu.int

COUNCIL REGULATION (EC) No 1183/2005
of 18 July 2005
imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60, 301 and 308 thereof,

Having regard to Common Position 2005/440/CFSP of 13 June 2005 concerning restrictive measures against the Democratic Republic of the Congo*,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament**

Whereas:

(1) In view of the continuing illicit flow of weapons within and into the Democratic Republic of the Congo, the UN Security Council, acting under Chapter VII of the Charter of the United Nations, adopted Resolution 1596 (2005) of 18 April 2005 providing, inter alia, for financial restrictive measures against persons designated by the competent United Nations Sanctions Committee as acting in violation of the arms embargo imposed against the Democratic Republic of the Congo by UN Security Council Resolutions 1493 (2003) and 1596 (2005).

(2) Common Position 2005/440/CFSP provides, *inter alia*, for implementation of the financial restrictive measures against persons designated by the competent United Nations Sanctions Committee. Those measures fall within the scope of the Treaty. In order to avoid any distortion of competition Community measures are therefore necessary to implement them as far as the Community is concerned. For the purposes of this Regulation, the territory of the Community should be deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in the Treaty.

(3) For reasons of expediency, the Commission should be empowered to amend the Annexes to this Regulation.

(4) In order to ensure that the measures provided for in this Regulation are effective, this Regulation should enter into force on the day of its publication.

(5) The Treaty, in Articles 60 and 301, empowers the Council to take, under certain conditions, measures aimed at the interruption or reduction of payments or movement of capital and of economic relations with regard to third countries. The measures laid down in this Regulation, targeted also at individual persons not directly linked to the government of a third country, are necessary to attain this objective of the Community and Article 308 of the Treaty empowers the Council to take such measures if no other specific powers are provided for in the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

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

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*OJ L 152, 15.6.2005, p. 22.

**Opinion delivered on 23 June 2005 (not yet published in the Official Journal).

1. ‘Sanctions Committee’ means the Committee of the Security Council of the United Nations which was established pursuant to paragraph 8 of UN Security Council Resolution 1533 (2004);

2. ‘funds’ means financial assets and benefits of every kind, including but not limited to:

(a) cash, cheques, claims on money, drafts, money orders and other payment instruments;

(b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

(c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;

(d) interest, dividends or other income on or value accruing from or generated by assets;

(e) credit, right of set-off, guarantees, performance bonds or other financial commitments;

(f) letters of credit, bills of lading, bills of sale;

(g) documents evidencing an interest in funds or financial resources;

(h) any other instrument of export-financing;

3. ‘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;

4. ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;

5. ‘freezing of economic resources’ means preventing their use to obtain funds, goods or services in any way, including, but not limited to, the selling, hiring or mortgaging of them.

Article 2

1. All funds and economic resources belonging to, or owned or held by the natural or legal persons, entities or bodies listed in Annex I shall be frozen.

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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 or bodies listed in Annex I.

3. The participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to circumvent the measures referred to in paragraphs 1 and 2 shall be prohibited.

Article 3

1. By way of derogation from Article 2 the competent authorities of the Member States, as listed in Annex II, may authorise the release of certain frozen funds or economic resources or the making available of certain frozen funds or economic resources, under such conditions as they deem appropriate, after having determined that the funds or economic resources concerned are:

(a) necessary for basic expenses, 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 and 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;

provided that the Member State concerned has notified this determination to the Sanctions Committee and the Sanctions Committee has not objected within four working days of such notification.

2. By way of derogation from Article 2 the competent authorities of the Member States, as listed in Annex II, may authorise the release of certain frozen funds or economic resources or the making available of certain frozen funds or economic resources, after having determined that the funds or economic resources are necessary for extraordinary expenses, provided that this determination has been notified by the Member State to the Sanctions Committee and that the determination has been approved by that Committee.

Article 4

By way of derogation from Article 2, the competent authorities of the Member States as 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 of a judicial, administrative or arbitral lien established prior to 18 April 2005 or of a judicial, administrative or arbitral judgement rendered prior to that date;

(b) the funds or economic resources will be used exclusively to satisfy claims secured by such a lien or recognised as valid in such a judgement, within the limits set by applicable laws and regulations governing the rights of persons having such claims;

(c) the lien or judgement is not for the benefit of a person, entity or body listed in Annex I;

(d) recognising the lien or judgement is not contrary to public policy in the Member State concerned;

(e) the lien or judgement has been notified by the Member State to the Sanctions Committee.

Article 5

1. Article 2(2) shall not apply to the addition to frozen accounts of:

(a) interest or other earnings on those accounts, or

(b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to this Regulation,

provided that any such interest, other earnings and payments are frozen in accordance with Article 2(1).

2. Article 2(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 the person, entity or body listed in Annex I, provided that any such additions to such accounts will also be frozen. The financial or credit institutions shall inform the competent authorities about such transactions without delay.

Article 6

1. Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy and to the provisions of Article 284 of the Treaty, natural and legal persons, entities and bodies shall:

(a) supply immediately any information which would facilitate compliance with this Regulation, such as accounts and amounts frozen in accordance with Article 2, to the competent authorities of the Member States listed in Annex II where they are resident or located, and shall transmit such information, directly or through these competent authorities, to the Commission;

(b) cooperate with the competent authorities listed in Annex II in any verification of this information.

2. Any additional information directly received by the Commission shall be made available to the competent authorities of the Member State concerned.

3. Any information provided or received in accordance with paragraphs 1 and 2 shall be used only for the purposes for which it was provided or received.

Article 7

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, entity or body implementing it, or its directors or employees, unless it is proved that the funds and economic resources were frozen as result of negligence.

Article 8

The Commission and Member States shall immediately inform each other of the measures taken under this Regulation and shall supply each other with any other relevant information at their disposal in connection with this Regulation, in particular information in respect of violation and enforcement problems and judgements handed down by national courts.

Article 9

1. The Commission shall be empowered to:

(a) amend Annex I on the basis of determinations made by the Sanctions Committee; and

(b) amend Annex II on the basis of information supplied by Member States.

2. Without prejudice to the rights and obligations of the Member States under the Charter of the United Nations, the Commission shall maintain all necessary contacts with the Sanctions Committee for the purpose of the effective implementation of this Regulation.

Article 10

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Member States shall notify those rules to the Commission without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.

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Article 11

This Regulation shall apply

(a) within the territory of the Community, including its airspace;

(b) on board any aircraft or any vessel under the jurisdiction of a Member State;

(c) to any person inside or outside the territory of the Community who is a national of a Member State;

(d) to any legal person, entity or body which is incorporated or constituted under the law of a Member State;

(e) to any legal person, entity or body doing business within the Community.

Article 12

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, 18 July 2005.

For the Council
The President
J. STRAW

ANNEX I

List of natural and legal persons, entities or bodies referred to in Article 2

(Annex to be completed subject to designation by the Committee of the Security Council established pursuant to paragraph 8 of UN Security Council Resolution 1533 (2004))

ANNEX II

List of competent authorities referred to in Articles 3, 4, 5 and 6

BELGIUM
Federale Overheidsdienst Financiën
Thesaurie
Kunstlaan 30
B-1040 Brussel
Fax: 00 32 2 233 74 65
E-mail: Quesfinvragen.tf@minfin.fed.be

Service Public Fédéral des Finances
Trésorerie
30 Avenue des Arts
B-1040 Bruxelles
Fax: 00 32 2 233 74 65
E-mail: Quesfinvragen.tf@minfin.fed.be

CZECH REPUBLIC
Ministerstvo financí
Financní analytický útvar
P.O. BOX 675
Jindrišská 14
111 21 Praha 1
Tel.: + 420 2 5704 4501
Fax: + 420 2 5704 4502

Ministerstvo zahranicních vecí
Odbor spolecné zahranicní a bezpecnostní politiky EU
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118 00 Praha 1
Tel.: + 420 2 2418 2987
Fax: + 420 2 2418 4080

DENMARK
Erhvervs- og Byggestyrelsen
Langelinie Allé 17
DK-2100 København K
Tlf. (45) 35 46 62 81
Fax (45) 35 46 62 03

Udenrigsministeriet
Asiatisk Plads 2
DK-1448 København K
Tlf. (45) 33 92 00 00
Fax (45) 32 54 05 33

Justitsministeriet
Slotholmsgade 10
DK-1216 København K

Tlf. (45) 33 92 33 40
Fax (45) 33 93 35 10

GERMANY
Concerning freezing of funds:
Deutsche Bundesbank
Servicezentrum Finanzsanktionen
Postfach
D-80281 München
Tel. (49) 89 28 89 38 00
Fax (49) 89 35 01 63 38 00

Concerning technical assistance:
Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA)
Frankfurter Straße 29-35
D-65760 Eschborn
Tel. (49) 61 96 908-0
Fax (49) 61 96 908-800

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Eesti Välisministeerium
Islandi väljak 1
15049 Tallinn
Tel.: + 372 6317 100
Faks: + 372 6317 199

Finantsinspektsioon
Sakala 4
15030 Tallinn
Tel.: + 372 6680 500
Faks: + 372 6680 501

GREECE
A. Freezing of Assets
Ministry of Economy and Finance
General Directory of Economic Policy
Address: 5 Nikis Str.
10 563 Athens - Greece
Tel.: + 30 210 3332786
Fax: + 30 210 3332810

Α. Δέσμευση κεφαλαίων
Υπουργείο Οικονομίας και Οικονομικών
Γενική Δ/νση Οικονομικής Πολιτικής
Δ/νση: Νίκης 5
10 563 Αθήνα
Τηλ.: + 30 210 3332786

Faξ: + 30 210 3332810

B. Import-Export restrictions
Ministry of Economy and Finance
General Directorate for Policy Planning and Management
Address Kornaroy Str.
10 563 Athens
Tel.: + 30 210 3286401-3
Fax: + 30 210 3286404

Β. Περιορισμοί εισαγωγών - εξαγωγών
Υπουργείο Οικονομίας και Οικονομικών
Γενική Δ/νση Σχεδιασμού και Διαχείρισης Πολιτικής
Δ/νση: Κορνάρου 1
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Τηλ.: + 30 210 3286401-3
Faξ: + 30 210 3286404

SPAIN
Dirección General del Tesoro y Política Financiera
Subdirección General de Inspección y Control de Movimientos de Capitales
Ministerio de Economía
Paseo del Prado, 6
E-28014 Madrid
Tel. (34) 912 09 95 11

Dirección General de Comercio e Inversiones
Subdirección General de Inversiones Exteriores
Ministerio de Industria, Comercio y Turismo
Paseo de la Castellana, 162
E-28046 Madrid
Tel. (34) 913 49 39 83

FRANCE
Ministère de l'économie, des finances et de l'industrie
Direction générale du Trésor et de la politique économique
Service des affaires multilatérales et du développement
Sous-direction Politique commerciale et investissements
Service Services, Investissements et Propriété intellectuelle
139, rue du Bercy
75572 Paris Cedex 12
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Télécopieur: (33) 1 53 18 96 55

Ministère des affaires étrangères
Direction générale des affaires politiques et de sécurité
Direction des Nations unies et des organisations internationales

Sous-direction des affaires politiques
Tél.: (33) 1 43 17 59 68
Télécopieur (33) 1 43 17 46 91
Service de la politique étrangère et de sécurité commune
Tél.: (33) 1 43 17 45 16
Télécopieur: (33) 1 43 17 45 84

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Department of Foreign Affairs
Iveagh House
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Fax: + 353 1 408 2165

Central Bank and Financial Services Authority of Ireland
Financial Markets Department
Dame Street
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Tel.: + 353 1 671 6666
Fax: + 353 1 679 8882

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Piazzale della Farnesina, 1
I-00194 Roma
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Tel. (39) 06 3691 8221
Fax. (39) 06 3691 5296

Ministero dell'Economia e delle Finanze
Dipartimento del Tesoro
Comitato di Sicurezza Finanziaria
Via XX Settembre, 97
I-00187 Roma
Tel. (39) 06 4761 3942
Fax. (39) 06 4761 3032

CYPRUS
Ministry of Commerce, Industry and Tourism
6 Andrea Araouzou
1421 Nicosia
Tel: + 357 22 86 71 00
Fax: + 357 22 31 60 71

Central Bank of Cyprus
80 Kennedy Avenue
1076 Nicosia
Tel: + 357 22 71 41 00
Fax: + 357 22 37 81 53

Ministry of Finance (Department of Customs)
M. Karaoli
1096 Nicosia
Tel: + 357 22 60 11 06
Fax: + 357 22 60 27 41/47

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Noziedzigi iegutu lidzeklu legalizacijas noveršanas dienests
Kalpaka bulvaris 6
Riga, LV 1801
Talr. Nr. (371) 70144431
Fakss: (371) 7044804
E-pasts: gen@lrp.gov.lv

Latvijas Republikas Arlietu ministrija
Brivibas iela 36
Riga, LV 1395
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Security Policy Department
Ministry of Foreign Affairs of the Republic of Lithuania
J. Tumo-Vaižganto 2
LT-01511 Vilnius
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Faks. (370-5) 236 30 90

LUXEMBOURG
Ministère des Affaires étrangères et de l'Immigration
Direction des Relations économiques internationales
5, rue Notre-Dame
L-2240 Luxembourg
Tél.: (352) 478 2346
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Ministère des Finances
3, rue de la Congrégation
L-1352 Luxembourg
Tél.: (352) 478 2712
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Hungarian National Police Headquarters
Teve u. 4–6.
H-1139 Budapest
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Országos Rendorfokapitányság
1139 Budapest, Teve u. 4-6.
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Ministry of Finance
József nádor tér. 2-4.
H-1051 Budapest
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Postbox: 1369 Pf.: 481
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Pénzügyminisztérium
1051 Budapest, József nádor tér. 2-4.
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Ministry of Economic Affairs and Transport (in view of Article 4)
Hungarian Trade Licencing Office
Margit krt.85.
H-1024 Budapest Hungary
Postbox: 1537 Pf.: 345
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Gazdasági és Közlekedési Minisztérium - Kereskedelmi
Engedélyezési Hivatal
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De Directie Financiële Markten/Afdeling Integriteit
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Otto Wagner Platz 3
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POLAND
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General Inspector of Financial Information (GIFF)
ul. Swietokrzyska 12
00-916 Warsaw
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Coordinating authority:
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Department of Law and Treaties
Al. J. Ch. Szucha 23
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Fax. (+ 48 22) 523 83 29

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Tel.: 00386 1 4783311
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Ministry of Defence
Kardeljeva pl. 25
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Försäkringskassan
103 51 Stockholm
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Articles 5 and 6:
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Box 6750
113 85 Stockholm
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