

Council Regulation (EC) No 314/2004 of 19 February 2004
concerning certain restrictive measures in respect of Zimbabwe

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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 Council Common Position 2004/161/CFSP of 19 February 2004 renewing restrictive measures against Zimbabwe⁽¹⁾,

Having regard to the proposal from the Commission,

Whereas:

- (1) By means of Common Position 2002/145/CFSP of 18 February 2002 concerning restrictive measures against Zimbabwe⁽²⁾, the Council expressed serious concern about the situation in Zimbabwe and in particular about serious violations of human rights by the Government of Zimbabwe, including violations of the freedoms of opinion, of association and of peaceful assembly. In view of this, it imposed certain restrictive measures, which are subject to annual review. Some of the restrictive measures imposed against Zimbabwe were implemented at Community level by Council Regulation (EC) No 310/2002⁽³⁾. The period of that Regulation's application was extended until 20 February 2004 by Council Regulation (EC) No 313/2003⁽⁴⁾.
- (2) The Council continues to consider that the Government of Zimbabwe is still engaging in serious violations of human rights. Therefore, for as long as the violations occur, the Council deems it necessary to maintain restrictive measures against the Government of Zimbabwe and those who bear prime responsibility for such violations.
- (3) Accordingly, Common Position 2004/161/CFSP provides for renewal of the restrictive measures provided for by Common Position 2002/145/CFSP.
- (4) The restrictive measures provided for by Common Position 2004/161/CFSP include, *inter alia*, a ban on technical assistance, financing and financial assistance related to military activities, a ban on the export of equipment which might be used for internal repression, and the freezing of funds, financial assets and economic resources of members of the Government of Zimbabwe and of any natural or legal persons, entities or bodies associated with them.
- (5) These measures fall within the scope of the Treaty and, therefore, in order to avoid any distortion of competition, Community legislation is necessary to implement them as far as the Community is concerned. For the purpose of this Regulation, the territory of

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Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 314/2004. (See end of Document for details)

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 that Treaty.

- (6) It is desirable to align with recent practice the provisions concerning the ban on technical assistance, financing and financial assistance related to military activities, and those concerning the freezing of funds, financial assets and economic resources.
- (7) This Regulation amends and extends the restrictive measures contained in Regulation (EC) No 310/2002, which it should replace immediately on the latter's expiry,

HAS ADOPTED THIS REGULATION:

Article 1

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

- (a) '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 includes verbal forms of assistance;
- (b) '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;
 - (vii) documents evidencing an interest in funds or financial resources;
 - (viii) any other instrument of export-financing;
- (c) '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;
- (d) '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;
- (e) '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.

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Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 314/2004. (See end of Document for details)

Article 2

It shall be prohibited:

- (a) to grant, sell, supply or transfer technical assistance related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, directly or indirectly to any person, entity or body in, or for use in Zimbabwe;
- (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, directly or indirectly to any person, entity or body in, or for use in Zimbabwe;
- (c) to participate, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to at points (a) or (b).

Article 3

It shall be prohibited:

- (a) knowingly and intentionally, to sell, supply, transfer or export, directly or indirectly, equipment which might be used for internal repression as listed in Annex I, whether or not originating in the Community, to any natural or legal person, entity or body in, or for use in Zimbabwe;
- (b) to grant, sell, supply or transfer, directly or indirectly, technical assistance related to the equipment referred to at point (a), to any natural or legal person, entity or body in, or for use in Zimbabwe;
- (c) to provide, directly or indirectly, financing or financial assistance related to the equipment referred to at point (a), to any natural or legal person, entity or body in, or for use in Zimbabwe;
- (d) to participate, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to at points (a), (b) or (c).

Article 4

1 By way of derogation from Articles 2 and 3 the competent authorities of Member States as listed in Annex II may authorise:

- a the provision of financing and financial assistance and technical assistance related to:
 - (i) non-lethal military equipment intended solely for humanitarian or protective use, or for institution-building programmes of the United Nations, the European Union and the Community;
 - (ii) materiel intended for European Union and United Nations crisis-management operations;
- b the sale, supply, transfer or export of equipment listed in Annex I intended solely for humanitarian or protective use, and the provision of financial assistance, financing and technical assistance related to these transactions.

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

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[^{F1} Article 4a

1 By way of derogation from Article 3, the competent authority, as listed in Annex II, of the Member State where the exporter is established or the Member State where the explosive substances or related equipment is supplied from, may authorise, under such conditions as it deems appropriate, the sale, supply, transfer or export of explosive substances and related equipment as listed in point 4 of Annex I and financial and technical assistance, where the explosive substances and related equipment are intended and will be used solely for civilian use in mining and infrastructure projects.

2 The authorisation referred to in this Article shall be granted in accordance with the detailed rules laid down in Article 11 of Regulation (EC) No 428/2009. The authorisation shall be valid throughout the Union.

3 Exporters shall supply the competent authority with all relevant information required for the assessment of their application for an authorisation.

4 The relevant Member State shall inform the other Members States and the Commission at least two weeks in advance of its intention to grant an authorisation referred to in paragraph 1 of this Article.]

Textual Amendments

F1 Inserted by [Council Regulation \(EU\) 2017/284 of 17 February 2017 amending Regulation \(EC\) No 314/2004 concerning certain restrictive measures in respect of Zimbabwe.](#)

Article 5

Articles 2 and 3 shall not apply to protective clothing, including flak jackets and military helmets, temporarily exported to Zimbabwe by United Nations personnel, personnel of the European Union, the Community or its Member States, representatives of the media and humanitarian and development workers and associated personnel for their personal use only.

Article 6

1 All funds and economic resources belonging to individual members of the Government of Zimbabwe and to any natural or legal persons, entities or bodies associated with them as listed in Annex III 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 III.

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

[^{F24} The measures in paragraphs 1 and 2 shall be suspended in so far as they concern persons and entities listed in Annex IV.]

Textual Amendments

F2 Inserted by [Council Regulation \(EU\) No 153/2014 of 17 February 2014 amending Regulation \(EC\) No 314/2004 concerning certain restrictive measures in respect of Zimbabwe and repealing Regulation \(EU\) No 298/2013.](#)

Status: Point in time view as at 19/02/2017.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 314/2004. (See end of Document for details)

Article 7

1 By way of derogation from Article 6, 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;
- 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 all other competent authorities and the Commission at least two weeks prior to the authorisation.

The relevant competent authority shall inform the competent authorities of the other Member States and the Commission of any authorisation granted under this paragraph.

2 Article 6(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 Regulation (EC) No 310/2002 or this Regulation,

provided that any such interest, other earnings and payments continue to be subject to Article 6(1).

Article 8

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 6, 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 this Article shall be used only for the purposes for which it was provided or received.

Article 9

The freezing of funds and economic resources or the not making available of funds, 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

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

Article 10

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 11

The Commission shall be empowered to:

- (a) amend Annex II on the basis of information supplied by Member States;
- (b) amend Annex III on the basis of decisions taken in respect of the Annex to Common Position 2004/161/CFSP.

^{F3}Article 11a

1 Annex III shall include the grounds for the listing of natural or legal persons, entities or bodies concerned.

2 Annex III shall include, where available, 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 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.]

Textual Amendments

- F3** Inserted by [Council Regulation \(EU\) 2015/1919 of 26 October 2015 amending Regulation \(EC\) No 314/2004 concerning certain restrictive measures in respect of Zimbabwe.](#)

Article 12

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

Article 13

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;

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- (d) to any legal person, group or entity which is incorporated or constituted under the law of a Member State;
- (e) to any legal person, group or entity doing business within the Community.

Article 14

This Regulation shall enter into force on 21 February 2004.

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

*Status: Point in time view as at 19/02/2017.**Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 314/2004. (See end of Document for details)*[^{F4}ANNEX I

List of equipment which might be used for internal repression referred to in Article 3

Textual Amendments**F4** Substituted by [Council Regulation \(EU\) 2017/284 of 17 February 2017 amending Regulation \(EC\) No 314/2004 concerning certain restrictive measures in respect of Zimbabwe.](#)

1. Fire-arms, ammunition and related accessories therefor, as follows:
 - 1.1. Firearms not controlled by ML 1 and ML 2 of the EU Common Military List;
 - 1.2. Ammunition specially designed for the firearms listed in 1.1 and specially designed components therefor;
 - 1.3. Weapon-sights not controlled by the EU Common Military List.
2. Bombs and grenades not controlled by the EU Common Military List.
3. Vehicles as follows:
 - 3.1. Vehicles equipped with a water cannon, specially designed or modified for the purpose of riot control;
 - 3.2. Vehicles specially designed or modified to be electrified to repel borders;
 - 3.3. Vehicles specially designed or modified to remove barricades, including construction equipment with ballistic protection;
 - 3.4. Vehicles specially designed for the transport or transfer of prisoners and/or detainees;
 - 3.5. Vehicles specially designed to deploy mobile barriers;
 - 3.6. Components for the vehicles specified in 3.1 to 3.5 specially designed for the purposes of riot control.

Note 1: This item does not control vehicles specially designed for the purposes of fire-fighting.

Note 2: For the purposes of item 3.5 the term ‘vehicles’ includes trailers.

4. Explosive substances and related equipment as follows:
 - 4.1. Equipment and devices specially designed to initiate explosions by electrical or nonelectrical means, including firing sets, detonators, igniters, boosters and detonating cord, and specially designed components therefor; except those specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of which is not the creation of explosions (e.g., car air-bag inflators, electric-surge arresters of fire sprinkler actuators);
 - 4.2. Linear cutting explosive charges not controlled by the EU Common Military List;
 - 4.3. Other explosives not controlled by the EU Common Military List and related substances as follows:

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- (a) amatol;
 - (b) nitrocellulose (containing more than 12,5 % nitrogen);
 - (c) nitroglycol;
 - (d) pentaerythritol tetranitrate (PETN);
 - (e) picryl chloride;
 - (f) 2,4,6-trinitrotoluene (TNT).
5. Protective equipment not controlled by ML 13 of the EU Common Military List as follows:
- 5.1. Body armour providing ballistic and/or stabbing protection;
 - 5.2. Helmets providing ballistic and/or fragmentation protection, anti-riot helmets, anti-riot shields and ballistic shields.
- Note: This item does not control:
- equipment specially designed for sports activities;
 - equipment specially designed for safety of work requirements.
6. Simulators, other than those controlled by ML 14 of the EU Common Military List, for training in the use of firearms, and specially designed software therefor.
7. Night vision, thermal imaging equipment and image intensifier tubes, other than those controlled by the EU Common Military List.
8. Razor barbed wire.
9. Military knives, combat knives and bayonets with blade lengths in excess of 10 cm.
10. Production equipment specially designed for the items specified in this list.
11. Specific technology for the development, production or use of the items specified in this list.]

[^{F5}ANNEX II

Web sites for information on the competent authorities referred to in Articles 4, 7 and 8 and address for notifications to the European Commission

Textual Amendments

- F5** Substituted by [Commission Implementing Regulation \(EU\) No 145/2013 of 19 February 2013 amending Council Regulation \(EC\) No 314/2004 concerning certain restrictive measures in respect of Zimbabwe.](#)

BELGIUM

<http://www.diplomatie.be/eusanctions>

BULGARIA

<http://www.mfa.bg/en/pages/135/index.html>

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CZECH REPUBLIC

<http://www.mfcr.cz/mezinarodnisankce>

DENMARK

<http://um.dk/da/politik-og-diplomati/retsorden/sanktioner/>

GERMANY

<http://www.bmwi.de/DE/Themen/Aussenwirtschaft/aussenwirtschaftsrecht,did=404888.html>

ESTONIA

http://www.vm.ee/est/kat_622/

IRELAND

<http://www.dfa.ie/home/index.aspx?id=28519>

GREECE

<http://www.mfa.gr/en/foreign-policy/global-issues/international-sanctions.html>

SPAIN

http://www.maec.es/es/MenuPpal/Asuntos/Sanciones%20Internacionales/Paginas/Sanciones_%20Internacionales.aspx

FRANCE

<http://www.diplomatie.gouv.fr/autorites-sanctions/>

[^{F6}CROATIA

<http://www.mvep.hr/sankcije>

ITALY

http://www.esteri.it/MAE/IT/Politica_Europea/Deroghe.htm

CYPRUS

<http://www.mfa.gov.cy/sanctions>

LATVIA

<http://www.mfa.gov.lv/en/security/4539>

LITHUANIA

<http://www.urm.lt/sanctions>

LUXEMBOURG

<http://www.mae.lu/sanctions>

HUNGARY

http://www.kulugyminiszterium.hu/kum/hu/bal/Kulpolitikank/nemzetkozi_szankciok/

MALTA

http://www.doi.gov.mt/EN/bodies/boards/sanctions_monitoring.asp

NETHERLANDS

www.rijksoverheid.nl/onderwerpen/internationale-vrede-en-veiligheid/sancties

AUSTRIA

http://www.bmeia.gv.at/view.php3?f_id=12750&LNG=en&version=

POLAND

<http://www.msz.gov.pl>

PORTUGAL

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<http://www.min-nestrangeiros.pt>
ROMANIA

<http://www.mae.ro/node/1548>
SLOVENIA

http://www.mzz.gov.si/si/zunanja_politika_in_mednarodno_pravo/zunanja_politika/mednarodna_varnost/omejevalni_ukrepi/
SLOVAKIA

<http://www.foreign.gov.sk>
FINLAND

<http://formin.finland.fi/kvyhteisty/pakotteet>
SWEDEN

<http://www.ud.se/sanktioner>
UNITED KINGDOM

www.fco.gov.uk/competentauthorities
Address for notifications to the European Commission

European Commission

Service for Foreign Policy Instruments (FPI)

EEAS 02/309

B-1049 Brussels

Belgium

E-mail: relex-sanctions@ec.europa.eu

[^{F7}ANNEX III

List of persons and entities referred to in Article 6

Textual Amendments

- F7** Substituted by [Commission Implementing Regulation \(EU\) 2016/218 of 16 February 2016 amending Council Regulation \(EC\) No 314/2004 concerning certain restrictive measures in respect of Zimbabwe.](#)

I. Persons

| Name (and any aliases) | Identifying information | Grounds for designation |
|-------------------------------|---|---|
| (1) Mugabe, Robert Gabriel | President, born 21.2.1924; Passport AD001095 | Head of Government and responsible for activities that seriously undermine democracy, respect for human rights and the rule of law. |

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| | | | |
|-----|---|--|---|
| (2) | Mugabe, Grace | Born 23.7.1965; Passport AD001159. ID 63-646650Q70 | Associated with the ZANU-PF faction of the government. Took over the Iron Mask Estate in 2002; alleged to illicitly derive large profits from diamond mining. |
| (3) | Bonyongwe, Happyton Mabhuya | Director-General Central Intelligence Organisation, born 6.11.1960; Passport: AD002214; ID: 63-374707A13 | Senior security figure with a close association with the ZANU-PF (Zimbabwe African National Union — Patriotic Front) faction of the government and complicit in forming or directing repressive state policy. Accused of being responsible for kidnapping, torturing and killing MDC activists in June 2008. |
| (4) | Chihuri, Augustine | Police Commissioner, born 10.3.1953. Passport AD000206. ID 68-034196M68 | Senior police officer and member of the Joint Operational Command, closely associated with the repressive policies of ZANU-PF. Publically confessed to support ZANU-PF in contravention of the Police Act. In June 2009 ordered the police to drop all cases related to murders committed to the run-up to the June 2008 Presidential election. |
| (5) | Chiwenga, Constantine | Commander Zimbabwe Defence Forces, General (former Army Commander, Lieutenant General), born 25.8.1956. Passport AD000263. ID 63-327568M80 | Member of Joint Operational Command and complicit in forming or directing repressive state policy. Used army for farm takeovers. During 2008 elections was a prime architect of the violence associated with the process of the Presidential run-off. |
| (6) | Shiri, Perence (a.k.a. Bigboy) Samson Chikerema | Air Marshal (Air Force), born 1.11.1955. ID 29-098876M18 | Senior military officer and member of ZANU-PF Joint Operational Command and complicit in forming or directing oppressive state policy. Involved in political violence, including during the 2008 election |

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| | | |
|-----|---|---|
| | | in Mashonaland West in Chiadzwa. |
| (7) | Sibanda, Phillip Valerio (a.k.a. Valentine) | Commander Zimbabwe National Army, Lieutenant General, born 25.8.1956 or 24.12.1954. ID 63-357671H26 |
| | | Senior army figure with ties to the Government and complicit in forming or directing oppressive state policy. |

II. Entities

| Name | Identifying information | Grounds for designation |
|-----------------------------|---|---|
| Zimbabwe Defence Industries | 10th floor, Trustee House, 55 Samora Machel Avenue, PO Box 6597, Harare, Zimbabwe | Associated with the Ministry of Defence and the ZANU-PF faction of Government.] |

[^{F8} ANNEX IV

List of persons referred to in Article 6(4)

Textual Amendments

F8 Substituted by Council Regulation (EU) 2016/214 of 15 February 2016 amending Regulation (EC) No 314/2004 concerning certain restrictive measures in respect of Zimbabwe.

PersonsName (and any aliases)

| | |
|----|---|
| 1. | Bonyongwe, Happyton Mabhuva |
| 2. | Chihuri, Augustine |
| 3. | Chiwenga, Constantine |
| 4. | Shiri, Perence (a.k.a. Bigboy) Samson Chikerema |
| 5. | Sibanda, Phillip Valerio (a.k.a. Valentine)] |

Status: Point in time view as at 19/02/2017.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 314/2004. (See end of Document for details)

- (1) [OJ L 50, 20.2.2004, p. 66.](#)
- (2) [OJ L 50, 21.2.2002, p. 1.](#) Common Position as last amended by [Common Position 2003/115/CFSP \(OJ L 46, 20.2.2003, p. 30\).](#)
- (3) [OJ L 50, 21.2.2002, p. 4.](#) Regulation as last amended by [Commission Regulation \(EC\) No 743/2003 \(OJ L 106, 29.4.2003, p. 18\).](#)
- (4) [OJ L 46, 20.2.2003, p. 6.](#)

Status:

Point in time view as at 19/02/2017.

Changes to legislation:

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