

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

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.

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,

Status: Point in time view as at 03/03/2010.

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

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.

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.

Status: Point in time view as at 03/03/2010.

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 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.

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.

Status: Point in time view as at 03/03/2010.

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

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 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.

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;
- (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.

Status: Point in time view as at 03/03/2010.

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

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

Status:

Point in time view as at 03/03/2010.

Changes to legislation:

There are currently no known outstanding effects for the Council Regulation (EC) No 314/2004.