

COUNCIL REGULATION (EC) No 174/2005**of 31 January 2005****imposing restrictions on the supply of assistance related to military activities to Côte d'Ivoire**

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS REGULATION:

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

Having regard to Council Common Position 2004/852/CFSP of 13 December 2004 concerning restrictive measures against Côte d'Ivoire⁽¹⁾,

Having regard to the proposal from the Commission,

Whereas:

(1) In its Resolution 1572 (2004) of 15 November 2004, the UN Security Council, acting under Chapter VII of the Charter of the United Nations, and deploring the resumption of hostilities in Côte d'Ivoire and the repeated violations of the ceasefire agreement of 3 May 2003, decided to impose certain restrictive measures against Côte d'Ivoire.

(2) Common Position 2004/852/CFSP provides for the implementation of the measures set out in UN Security Council Resolution (UNSCR) 1572 (2004), including a ban on technical and financial assistance related to military activities and on equipment, which might be used for internal repression.

(3) This measure falls within the scope of the Treaty and, therefore, in order to avoid any distortion of competition, Community legislation is necessary to implement it as far as the Community is concerned. For the purpose of this Regulation, the territory of the Community is deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in that Treaty.

(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,

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 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 14 of UN Security Council Resolution (UNSCR) 1572 (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, Côte d'Ivoire;
- (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 matériel, 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, Côte d'Ivoire;
- (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

It shall be prohibited:

- (a) 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 person, entity or body in, or for use in, Côte d'Ivoire;

⁽¹⁾ OJ L 368, 15.12.2004, p. 50.

- (b) to grant, sell, supply or transfer technical assistance related to the equipment referred to in point (a), directly or indirectly to any person, entity or body in, or for use in, Côte d'Ivoire;
- (c) to provide financing or financial assistance related to the equipment referred to in point (a), directly or indirectly to any person, entity or body in, or for use in, Côte d'Ivoire;
- (d) 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), (b) or (c).

Article 4

1. By way of derogation from Article 2, the prohibitions referred to therein shall not apply to:

- (a) the provision of technical assistance, financing and financial assistance related to arms and related materiel, where such assistance or services are intended solely for support of and use by the United Nations Operation in Côte d'Ivoire (UNOCI) and the French forces who support it;
- (b) the provision of technical assistance related to non-lethal military equipment intended solely for humanitarian or protective use, including such equipment intended for EU, UN, African Union and Economic Community of West African States (ECOWAS) crisis management operations, where such activities have also been approved in advance by the Sanctions Committee;
- (c) the provision of financing or financial assistance related to non-lethal military equipment intended solely for humanitarian or protective use, including such equipment intended for EU, UN, African Union and ECOWAS crisis management operations;
- (d) the provision of technical assistance related to arms and related materiel intended solely for support of or use in the process of restructuring defence and security forces pursuant to paragraph 3, subparagraph (f) of the Linas-Marcoussis Agreement, where such activities have also been approved in advance by the Sanctions Committee;
- (e) the provision of financing or financial assistance related to arms and related materiel intended solely for support of or use in the process of restructuring defence and security forces pursuant to paragraph 3, subparagraph (f) of the Linas-Marcoussis Agreement;

- (f) the sales or supplies temporarily transferred or exported to Côte d'Ivoire to the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the evacuation of its nationals and those for whom it has consular responsibility in Côte d'Ivoire, where such activities have also been notified in advance to the Sanctions Committee.

2. Authorisations for the activities referred to in paragraph 1, including where approval by, or notification to, the Sanctions Committee is required, shall be obtained through the competent authority, as listed in Annex II, of the Member State where the service provider is established or of the exporting Member State.

3. 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 Côte d'Ivoire 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

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 7

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

Article 8

Member States shall lay down the rules on sanctions applicable to infringements of the provisions 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. Member States shall notify the Commission of those rules without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.

Article 9

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 10

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, 31 January 2005.

For the Council
The President
J. ASSELBORN

ANNEX I

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

The list below does not comprise the articles that have been specially designed or modified for military use.

1. Helmets providing ballistic protection, anti-riot helmets, anti-riot shields and ballistic shields and specially designed components therefor.
2. Specially designed fingerprint equipment.
3. Power-controlled searchlights.
4. Construction equipment provided with ballistic protection.
5. Hunting knives.
6. Specially designed production equipment to make shotguns.
7. Ammunition hand-loading equipment.
8. Communications intercept devices.
9. Solid-state optical detectors.
10. Image-intensifier tubes.
11. Telescopic weapon sights.
12. Smooth-bore weapons and related ammunition, other than those specially designed for military use, and specially designed components therefor; except:
 - signal pistols;
 - air- and cartridge-powered guns designed as industrial tools or humane animal stunners.
13. Simulators for training in the use of firearms and specially designed or modified components and accessories therefor.
14. Bombs and grenades, other than those specially designed for military use, and specially designed components therefor.
15. Body armour, other than that manufactured to military standards or specifications, and specially designed components therefor.
16. All-wheel-drive utility vehicles capable of off-road use that have been manufactured or fitted with ballistic protection, and profiled armour for such vehicles.
17. Water cannon and specially designed or modified components therefor.
18. Vehicles equipped with a water cannon.
19. Vehicles specially designed or modified to be electrified to repel boarders and components therefor specially designed or modified for that purpose.
20. Acoustic devices represented by the manufacturer or supplier as suitable for riot-control purposes, and specially designed components therefor.
21. Leg-irons, gang-chains, shackles and electric-shock belts, specially designed for restraining human beings, except handcuffs for which the maximum overall dimension including chain does not exceed 240 mm when locked.

22. Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an incapacitating substance (such as tear gas or pepper sprays), and specially designed components therefor.
 23. Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an electric shock (including electric-shock batons, electric shock shields, stun guns and electric shock dart guns (tasers)) and components therefor specially designed or modified for that purpose.
 24. Electronic equipment capable of detecting concealed explosives and specially designed components therefor, except TV or X-ray inspection equipment.
 25. Electronic jamming equipment specially designed to prevent the detonation by radio remote control of improvised devices and specially designed components therefor.
 26. Equipment and devices specially designed to initiate explosions by electrical or non-electrical 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).
 27. Equipment and devices designed for explosive ordnance disposal; except:
 - bomb blankets;
 - containers designed for folding objects known to be, or suspected of being improvised explosive devices.
 28. Night vision and thermal imaging equipment and image intensifier tubes or solid state sensors therefor.
 29. Linear cutting explosive charges.
 30. Explosives and related substances as follows:
 - amatol,
 - nitrocellulose (containing more than 12,5 % nitrogen),
 - nitroglycol,
 - pentaerythritol tetranitrate (PETN),
 - picryl chloride,
 - tinitorphenylmethylnitramine (tetryl),
 - 2,4,6-trinitrotoluene (TNT)
 31. Software specially designed and technology required for all listed items.
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ANNEX II

LIST OF COMPETENT AUTHORITIES REFERRED TO IN ARTICLE 4

BELGIUM

Service public fédéral de l'économie, des PME, des classes moyennes et de l'énergie
Potentiel économique, E4, Service des licences
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Téléphone: (32-2) 206 58 16/27
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Federale overheidsdienst Economie, KMO's, Middenstand en Economie
Economisch Potentieel, E4, Dienst vergunningen
Generaal Lemanstraat 60
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Justitsministeriet
Slotholmsgade 10
DK-1216 København K
Tlf. (45) 33 92 33 40
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GERMANY

Concerning financing and financial assistance:
Deutsche Bundesbank
Servicezentrum Finanzsanktionen
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D-80281 München
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Concerning technical assistance:
Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA)
Frankfurter Straße 29—35
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