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**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

(OJ L 193, 23.7.2005, p. 1)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Commission Regulation (EC) No 1824/2005 of 9 November 2005	L 294	3	10.11.2005
► <u>M2</u>	Commission Regulation (EC) No 84/2006 of 18 January 2006	L 14	14	19.1.2006
► <u>M3</u>	Council Regulation (EC) No 1791/2006 of 20 November 2006	L 363	1	20.12.2006
► <u>M4</u>	Commission Regulation (EC) No 201/2007 of 23 February 2007	L 59	73	27.2.2007
► <u>M5</u>	Commission Regulation (EC) No 400/2007 of 12 April 2007	L 98	20	13.4.2007

**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 ⁽¹⁾,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽²⁾,

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,

⁽¹⁾ OJ L 152, 15.6.2005, p. 22.

⁽²⁾ Opinion delivered on 23 June 2005 (not yet published in the Official Journal).

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HAS ADOPTED THIS REGULATION:

Article 1

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

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.
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

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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.

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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.

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.

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ANNEX I

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

1. Frank Kakolele **Bwambale** (*alias* (a) Frank Kakorere, (b) Frank Kakorere Bwambale). Other information: Former RCD-ML leader.
2. Jérôme **Kakwavu Bukande** (*alias* (a) Jérôme Kakwavu, (b) Commandant Jérôme). Nationality: Congolese. Other information: Former President of UCD/FAPC. Given the rank of General in the FARDC in December 2004.
3. Germain **Katanga**. Nationality: Congolese. Other information: Under house arrest in Kinshasa from March 2005. FRPI chief. Appointed General in the FARDC in December 2004.
4. Thomas **Lubanga**. Place of birth: Ituri, Democratic Republic of Congo. Nationality: Congolese. Other information: President of the UPC/L. Under arrest in Kinshasa from March 2005.
5. ► **M4** Khawa Panga **Mandro** (*alias* (a) Kawa Panga, (b) Kawa Panga Mandro, (c) Kawa Mandro, (d) Yves Andoul Karim, (e) Chief Kahwa, (f) Kawa, (g) Mandro Panga Kahwa, (h) Yves Khawa Panga Mandro). Date of birth: 20.8.1973. Place of birth: Bunia, Democratic Republic of Congo. Nationality: Congolese. Other information: Ex-President of PUSIC. In prison in Bunia since April 2005. ◀
6. ► **M4** Iruta Douglas **Mpamo** (*alias* (a) Mpano (b) Douglas Iruta Mpamo). Address: Bld Kanyamuhanga 52, Goma, DRC. Date of birth: (a) 28.12.1965, (b) 29.12.1965. Place of birth: (a) Bashali, Masisi (refers to date of birth (a)), (b) Goma, Democratic Republic of Congo (formerly Zaire) (refers to date of birth (b)). Nationality: Congolese. Other information: Owner/Manager of the Compagnie Aérienne des Grands Lacs and of Great Lakes Business Company. ◀
7. Sylvestre **Mudacumura** (*alias* (a) Radja, (b) Mupenzi Bernard, (c) General Major Mupenzi). Nationality: Rwandan. Other information: FDLR Commander.
8. ► **M4** Dr Ignace **Murwanashyaka** (*alias* Ignace). Date of birth: 14.5.1963. Place of birth: (a) Butera, Rwanda, (b) Ngoma, Butare, Rwanda. Nationality: Rwandan. Other information: President of FDLR. Resident in Germany. ◀
9. Jules **Mutebutsi** (*alias* (a) Jules Mutebusi, (b) Jules Mutebuzi, (c) Colonel Mutebutsi). Place of birth: South Kivu, Democratic Republic of Congo. Nationality: Congolese. Other information: Former FARDC Deputy Military Regional Commander of 10th Military Region (Dismissed in April 2004). Currently detained in Rwanda.
10. Matthieu **Ngudjolo** (*alias* Cui Ngudjolo). Other information: ‘Colonel’ or ‘General’. FNI Chief of Staff and former Chief of Staff of the FRPI. Arrested by MONUC in Bunia in October 2003.
11. Floribert Ngabu **Njabu** (*alias* (a) Floribert Njabu, (b) Floribert Ndjabu, (c) Floribert Ngabu, (d) Ndjabu). Other information: President of FNI. Arrested and placed under house arrest in Kinshasa from March 2005.
12. ► **M4** Laurent **Nkunda** (*alias* (a) Laurent Nkunda Bwatware, (b) Laurent Nkundabatware, (c) Laurent Nkunda Mahoro Bwatware, (d) Laurent Nkunda Bwatware, (e) General Nkunda). Date of birth: (a) 6.2.1967, (b) 2.2.1967. Place of birth: North Kivu/Rutshuru, Democratic Republic of Congo (refers to date of birth (a)). Nationality: Congolese. Other information: Former RCD-G General. Founder, National Congress for the People’s Defense, 2006; Senior Officer, Rally for Congolese Democracy-Goma (RCD-G), 1998-2006; Officer Rwandan Patriotic Front (RPF), 1992-1998. Currently unlocated. Sightings in Rwanda and Goma. ◀
13. James **Nyakuni**. Nationality: Ugandan. Other information: Trade partnership with Commandant Jerome (Jérôme Kakwavu Bukande).
14. Dieudonné **Ozia Mazio** (*alias* (a) Ozia Mazio, (b) Omari, (c) Mr Omari). Date of birth: 6.6.1949. Place of birth: Ariwara, Democratic Republic of Congo. Nationality: Congolese. Other information: President of FEC in Aru territory. Financial schemes with Commandant Jerome (Jérôme Kakwavu Bukande) and FAPC.
15. Bosco **Taganda** (*alias* (a) Bosco Ntaganda, (b) Bosco Ntagenda, (c) Terminator, (d) Major). Nationality: Congolese. Other information: UPC/L military commander.

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16. Tous Pour la Paix et le Developpment (*alias* TPD). Address: Goma, North Kivu, Democratic Republic of Congo. Other information: non-governmental organization that provided assistance to RCD-G.

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17. Kambale **Kisoni** (alias Dr Kisoni). Date of birth: 24.5.1961. Place of birth: Mulashe, Democratic Republic of Congo (DRC). Nationality: Congolese. Passport No: C0323172. Other information: Resident of Butembo. Gold trader, owner of Butembo Airlines and Congocom Trading House in Butembo.
18. Straton **Musoni** (alias I.O. Musoni). Date of birth: (a) 6.4.1961; (b) 4.6.1961. Place of birth: Mugambazi, Kigali, Rwanda. Other information: based in Germany.
19. Uganda Commercial Impex (UCI) LTD. Address: (a) Kajoka Street, Kisemente, Kampala, Uganda. Telephone No: +256 41 533 578/9; (b) PO Box 22709, Kampala, Uganda. Other information: gold export company in Kampala.
20. Machanga. Address: Kampala, Uganda. Other information: gold export company in Kampala (Director: Mr Rajua).
21. Butembo Airlines (BAL). Address: Butembo, DRC. Other information: privately-owned airline operates out of Butembo.
22. Congocom Trading House. Address: Butembo, DRC. Telephone No: +253 (0) 99 983 784. Other information: gold trading in Butembo.
23. (a) Compagnie Aérienne des Grands Lacs (CAGL); (b) Great Lakes Business Company (GLBC). Address: (a) CAGL, Avenue President Mobutu, Goma, DRC (CAGL also has an office in Gisenyi, Rwanda); (b) GLBC, PO Box 315, Goma, DRC (GLBC also has an office in Gisenyi, Rwanda).

▼B*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

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BULGARIA

Министерство на финансите
ул. 'Г.С. Раковски' № 102
София 1000
Тел: (359-2) 985 91
Факс: (359-2) 988 1207
E-mail: feedback@minfin.bg

Ministry of Finance
102 'G.S. Rakovsky' street
Sofia 1000
Tel.: (359-2) 985 91
Fax: (359-2) 988 1207
E-mail: feedback@minfin.bg

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CZECH REPUBLIC

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

Ministerstvo zahraničních věcí
Odbor společné zahraniční a bezpečnostní 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 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

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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

ESTONIA

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

A. Δέσμευση κεφαλαίων

Υπουργείο Οικονομίας και Οικονομικών
Γενική Δ/ση Οικονομικής Πολιτικής
Δ/ση: Νίκης 5
10 563 Αθήνα
Τηλ.: + 30 210 3332786
Φαξ: + 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

B. Περιορισμοί εισαγωγών — εξαγωγών

Υπουργείο Οικονομίας και Οικονομικών
Γενική Δ/ση Σχεδιασμού και Διαχείρισης Πολιτικής
Δ/ση: Κορνάρου 1
T.K. 10 563 Αθήνα — Ελλάς
Τηλ.: + 30 210 3286401-3
Φαξ: + 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

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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
 Tél.: (33) 1 44 87 72 85
 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

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

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)

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M. Karaoli
1096 Nicosia
Tel: + 357 22 60 11 06
Fax: + 357 22 60 27 41/47

LATVIA

Latvijas Republikas Prokuratūra
Noziedzīgi iegūtu līdzekļu legalizācijas novēršanas dienests
Kalpaka bulvāris 6
Rīga, LV 1801
Tālr. Nr. (371) 70144431
Fakss: (371) 7044804
E-pasts: gen@lrp.gov.lv

Latvijas Republikas Ārlietu ministrija
Brīvības iela 36
Rīga, LV 1395
Tālr. Nr. (371) 7016201
Fakss: (371) 7828121
E-pasts: mfa.cha@mfa.gov.lv

LITHUANIA

Security Policy Department
Ministry of Foreign Affairs of the Republic of Lithuania
J. Tumo-Vaižganto 2
LT-01511 Vilnius
Lithuania
Tel. (370-5) 236 25 16
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
Fax: (352) 22 20 48

Ministère des Finances
3, rue de la Congrégation
L-1352 Luxembourg
Tél.: (352) 478 2712
Fax: (352) 47 52 41

HUNGARY

Hungarian National Police Headquarters
Teve u. 4–6.
H-1139 Budapest
Hungary
Tel./fax: + 36-1-443-5554

Országos Rendőrfőkapitányság
1139 Budapest, Teve u. 4–6.
Magyarország
Tel./fax: + 36-1-443-5554

Ministry of Finance
József nádor tér. 2–4.
H-1051 Budapest
Hungary
Postbox: 1369 Pf.: 481
Tel.: + 36-1-318-2066, + 36-1-327-2100
Fax: + 36-1-318-2570, + 36-1-327-2749

Pénzügyminisztérium
1051 Budapest, József nádor tér. 2–4.
Magyarország
Postafiók: 1369 Pf.: 481
Tel.: + 36-1-318-2066, + 36-1-327-2100
Fax: + 36-1-318-2570, + 36-1-327-2749

Ministry of Economic Affairs and Transport (in view of Article 4)
Hungarian Trade Licencing Office
Margit krt.85.

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H-1024 Budapest Hungary
 Postbox: 1537 Pf.: 345
 Tel.: + 36-1-336-7327

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

MALTA

Bord ta' Sorveljanza dwar is-Sanzjonijiet
 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

De minister van Financiën
 De Directie Financiële Markten/Afdeling Integriteit
 Postbus 20201
 NL-2500 EE Den Haag
 Tel.: 070-342 8997
 Fax: 070-342 7984

AUSTRIA

Oesterreichische Nationalbank
 Otto Wagner Platz 3
 A-1090 Wien
 Tel. (+ 43-1) 404 20-0
 Fax (+ 43-1) 404 20-7399

POLAND

Main authority:

Ministry of Finance
 General Inspector of Financial Information (GIFF)
 ul. Świętokrzyska 12
 00-916 Warsaw
 Poland
 Tel. (+ 48 22) 694 59 70
 Fax. (+ 48 22) 694 54 50

Coordinating authority:

Ministry of Foreign Affairs
 Department of Law and Treaties
 Al. J. Ch. Szucha 23
 00-580 Warsaw
 Poland
 Tel. (+ 48 22) 523 94 27 or 93 48
 Fax. (+ 48 22) 523 83 29

PORTUGAL

Ministério dos Negócios Estrangeiros
 Direcção-Geral dos Assuntos Multilaterais
 Largo do Rilvas
 P-1350-179 Lisboa
 Tel. (351) 21 394 67 02
 Fax (351) 21 394 60 73

Ministério das Finanças
 Direcção-Geral dos Assuntos Europeus e Relações Internacionais
 Avenida Infante D. Henrique n.º 1, C, 2.º
 P-1100 Lisboa
 Tel. (351) 21 882 3390/8
 Fax (351) 21 882 3399

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ROMANIA

Ministerul Afacerilor Externe
 Aleea Alexandru, nr. 31
 Sector 1, Bucureşti
 Tel.: (40) 21 319 2183
 Fax: (40) 21 319 2226
 e-mail: cabinet@mae.ro

Ministerul Finanţelor Publice
 Strada Apolodor nr. 17,
 Sector 5, Bucureşti
 Tel.: (40) 21 319 9743
 Fax: (40) 21 312 1630
 e-mail: cabinet.ministru@mfinante.ro

Ministerul Economiei şi Comerţului
 Calea Victoriei, nr. 152
 Sector 1, Bucureşti
 Tel.: (40) 21 231 02 62
 Fax: (40) 21 312 05 13

▼B

SLOVENIA

Ministry of Foreign Affairs
 Prešernova 25
 SI-1000 Ljubljana
 Tel.: 00386 1 4782000
 Faks: 00386 1 4782341

Ministry of the Economy
 Kotnikova 5
 SI-1000 Ljubljana
 Tel.: 00386 1 4783311
 Faks: 00386 1 4331031

Ministry of Defence
 Kardeljeva pl. 25
 SI-1000 Ljubljana
 Tel.: 00386 1 4712211
 Faks: 00386 1 4318164

SLOVAKIA

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

Ministerstvo zahraničných vecí Slovenskej republiky
 Hlboká cesta 2
 83336 Bratislava
 Tel: 00421/2/5978 1111
 Fax: 00421/2/5978 3649

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

SWEDEN

Articles 3 and 4:

Försäkringskassan
 103 51 Stockholm
 Tfn (46-8) 786 90 00
 Fax (46-8) 411 27 89

Articles 5 and 6:

Finansinspektionen
 Box 6750

▼B

113 85 Stockholm
Tfn (46-8) 787 80 00
Fax (46-8) 24 13 35

UNITED KINGDOM

HM Treasury
Financial Systems and International Standards
1, Horse Guards Road
London SW1A 2HQ
United Kingdom
Tel. + 44 (0) 20 7270 5977
Fax. + 44 (0) 20 7270 5430

Bank of England
Financial Sanctions Unit
Threadneedle Street
London EC2R 8AH
United Kingdom
Tel. + 44 (0) 20 7601 4768
Fax. + 44 (0) 20 7601 4309

EUROPEAN COMMUNITY

European Commission
DG External Relations
Directorate A: 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
Tel. (32-2) 295 55 85
Fax (32-2) 296 75 63