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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

(OJ L 29, 2.2.2005, p. 5)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Commission Regulation (EC) No 1209/2005 of 27 July 2005	L 197	21	28.7.2005
► <u>M2</u>	Council Regulation (EC) No 1791/2006 of 20 November 2006	L 363	1	20.12.2006
► <u>M3</u>	Council Regulation (EU) No 1032/2010 of 15 November 2010	L 298	1	16.11.2010
► <u>M4</u>	Council Regulation (EU) No 668/2011 of 12 July 2011	L 183	2	13.7.2011

**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,

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,

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 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).

⁽¹⁾ OJ L 368, 15.12.2004, p. 50.

▼B*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 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, 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;
- (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***▼M4**

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 the support of and use by the United Nations Operation in Côte d'Ivoire (UNOCI) and the French forces who support that Operation;

▼M4

- (b) the provision of technical assistance related to non-lethal military equipment intended solely for humanitarian or protective use, including such equipment intended for European Union, United Nations, 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 European Union, United Nations, African Union and ECOWAS crisis management operations;

- (d) the provision of technical assistance related to arms and related materiel intended solely for the support of or use in the Ivorian process of Security Sector Reform, pursuant to a formal request by the Ivorian Government, as 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 Ivorian process of Security Sector Reform, pursuant to a formal request by the Ivorian Government;

- (f) 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;

- (g) the provision of technical assistance, financing or financial assistance related to non-lethal military equipment intended solely to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order.

▼B

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.

▼M4*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 or service provider is established, may authorise, under such conditions as it deems appropriate, the sale, supply, transfer or export of non-lethal equipment listed in Annex I, or the provision of technical assistance, financing or financial assistance related to such non-lethal equipment, after having determined that the non-lethal equipment concerned is intended solely to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order.
2. By way of derogation from Article 3, the competent authority, as listed in Annex II, of the Member State where the exporter or service provider is established, may authorise, under such conditions as it deems appropriate, the sale, supply, transfer or export of equipment which might be used for internal repression as listed in Annex I, which is intended solely for the support of the Ivorian process of Security Sector Reform, as well as the provision of financing, financial assistance or technical assistance related to such equipment.
3. The relevant Member State shall inform other Member States and the European Commission of any authorisation made under this Article within two weeks of the authorisation.
4. No authorisations shall be granted for activities that have already taken place.

▼B*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.

▼ B*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.

▼ M3*Article 9*

This Regulation shall apply:

- (a) within the territory of the Union, 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 Union 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 in respect of any business done in whole or in part within the Union.

▼ B*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.

▼ **M3**

ANNEX I

List of equipment which might be used for internal repression as referred to in Articles 3 and 4a

1. Fire-arms, ammunition and related accessories therefor, as follows:
 - 1.1 Firearms not controlled by ML 1 and ML 2 of the Common Military List of the European Union ⁽¹⁾ (“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 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 inflaters, 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:
 - a. amatol;
 - b. nitrocellulose (containing more than 12,5 % nitrogen);

⁽¹⁾ OJ C 69, 18.3.2010, p. 19.

▼ M3

- 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.

▼ B*ANNEX II***▼ M3****List of competent authorities referred to in Articles 4 and 4a****▼ B**

BELGIUM

▼ M1

Service public fédéral Economie, PME, Classes moyennes et Energie

Potentiel économique

Direction Industries

Textile — Diamants et autres secteurs

City Atrium

Rue du Progrès 50

5^e étage

B-1210 Bruxelles

Tél. général: (32-2) 277 51 11

Fax (32-2) 277 53 09 / (32-2) 277 53 10

Federale overheidsdienst economie, KMO, Middenstand en Energie

Economisch potentieel

Directie Nijverheid

Textiel — Diamant en andere sectoren

City Atrium

Vooruitgangstraat 50

5e verdieping

B-1210 Brussel

Tel. (centrale): (32-2) 277 51 11

Fax (32-2) 277 53 09 / (32-2) 277 53 10

▼ M2

BULGARIA

Concerning freezing of funds:

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

Concerning technical assistance and import-export restrictions:

Междуведомствен съвет по въпросите на военнопromишления комплекс и мобилизационната готовност на страната

бул. 'Дондуков' № 1

1594 София

тел.: (359) 2 987 9145

факс: (359) 2 988 0379

Interdepartmental Council on the Military-Industrial Complex and the Mobilisation Preparedness of the Country

1 'Dondukov' Blvd.

1594 Sofia

Tel.: (359) 2 987 9145

Fax: (359) 2 988 0379

▼B

CZECH REPUBLIC

Ministerstvo průmyslu a obchodu

Licenční správa

Na Františku 32

110 15 Praha 1

Tel. (420-2) 24 06 27 20

Fax (420-2) 24 22 18 11

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 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

Slotholmsgade 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

Fax: +372 6317 199

GREECE

Ministry of Economy and Finance

General Directorate for Policy Planning and Management

Address Kornaroy Str., 105 63 Athens

Tel.: +30 210 3286401-3

Fax.: +30 210 3286404

▼B

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

SPAIN

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
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.
Telephone +353 1 478 0822
Fax +353 1 408 2165

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

ITALY

Ministero degli Affari Esteri
Piazzale della Farnesina, I-00194 Roma
D.G.A.S. — Ufficio I
Tel. (39) 06 3691 7334
Fax (39) 06 3691 5446

▼B

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 Ārlietu ministrija
Brīvības iela 36
Rīga LV 1395
Tālr. nr.: (371) 7016 201
Fakss: (371) 7828 121

LITHUANIA

▼M1

Ministry of Foreign Affairs
Security Policy Department
J. Tumo-Vaizganto 2
01511 Vilnius
Tel. + 370 5 236 25 16
Faks. + 370 5 231 30 90

▼B

LUXEMBOURG

Ministère de l'économie et du commerce extérieur
Office des licences
B.P. 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 Licencing and Administrative Office
Margit krt. 85.
H-1024 Budapest
Hungary
Postbox: 1537 Pf.: 345
Tel.: +36-1-336-7300

▼B

Gazdasági és Közlekedési Minisztérium — Engedélyezési és Közigazgatási Hivatal

Margit krt. 85.

H-1024 Budapest

Magyarország

Postafiók: 1537 Pf.: 345

Tel.: +36-1-336-7300

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

▼M1

Minister van Economische Zaken

Belastingdienst/Douane Noord

Postbus 40200

8004 DE Zwolle

Nederland

Tel. (31-38) 467 25 41

Fax (31-38) 469 52 29

▼B

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

Co-ordinating authority:

Ministry of Foreign Affairs

Department of Law and Treaties

Al. J. Ch. Szucha 23

00-580 Warsaw

Poland

Tel. (+48 22) 523 9427 or 9348

Fax (+48 22) 523 8329

Co-operating authorities:

Ministry of Defence

Department of Defence Policy

Al. Niepodległości 218

00-911 Warsaw

Poland

Tel. (+48 22) 687 49 17

Fax (+48 22) 682 621 80

Ministry of Economy and Labour

Department of Export Control

Plac Trzech Krzyży 3/5

00-507 Warsaw

Poland

Tel. (+48 22) 693 51 71

Fax (+48 22) 693 40 33

▼B

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.º 1, C 2.º
 P-1100 Lisboa
 Tel.: (351) 21 882 32 32 40/47
 Fax: (351) 21 882 32 49

▼M2

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
 Phone: 00386 1 4782000
 Fax: 00386 1 4782341

Ministry of the Economy
 Kotnikova 5
 SI-1000 Ljubljana
 Phone: 00386 1 4783311
 Fax: 00386 1 4331031

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

SLOVAKIA

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

▼B

Ministerstvo financii Slovenskej republiky

Štefanovičova 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 CFSP

Unit A.2: Legal and institutional matters for external relations — Sanctions

CHAR 12/163

B-1049 Bruxelles/Brussel

Tel. (32-2) 296 25 56

Fax (32-2) 296 75 63