

2005 No. 232

CUSTOMS AND EXCISE

The Export Control (Iraq and Ivory Coast) Order 2005

Made - - - - *7th February 2005*

Laid before Parliament *9th February 2005*

Coming into force - - *9th February 2005*

The Secretary of State, in exercise of the powers conferred upon her by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002(a), hereby makes the following Order:

1.—(1) This Order may be cited as the Export Control (Iraq and Ivory Coast) Order 2005 and shall come into force on 9th February 2005.

(2) In this Order—

“the 2003 Order” means the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (b);

“the Regulation” means Council Regulation (EC) No 174/2005 of 31 January 2005(c); and

“customs and excise Acts” and “prescribed sum” have the same meanings as in section 1 of the Customs and Excise Management Act 1979(d).

2. Any person who, except under the authority of a licence granted under this Order, infringes any of the following prohibitions in the Regulation:

- (a) Article 2(a), prohibiting the grant, sale, supply or transfer of technical assistance related to military activities, directly or indirectly to any person, entity or body in, or for use in, Ivory Coast; or
- (b) Article 2(b), prohibiting financing or financial assistance related to military activities for any sale, supply, transfer or export of arms and related material, or for any grant, sale, supply, or transfer of related technical assistance and other services, directly or indirectly to any person, body or entity in, or for use in, Ivory Coast; or
- (c) Article 2(c), prohibiting the participation, knowingly or intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to in Article 2(a) and (b); or
- (d) Article 3(a), prohibiting the sale, supply, transfer or export, directly or indirectly, of equipment which might be used for internal repression as listed in Annex I to the EC Regulation, whether or not originating in the Community, to any person, entity or body in, or for use in Ivory Coast; or

(a) 2002 c. 28.
(b) S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561 and 2004/2741.
(c) OJ No. L29/5, 2.2.2005
(d) 1979 c.2

- (e) Article 3(b), prohibiting the grant, sale, supply or transfer of technical assistance, related to the equipment listed in Annex I to the EC Regulation, directly or indirectly to any person, entity or body in, or for use in Ivory Coast; or
- (f) Article 3(c), prohibiting the provision of financing or financial assistance related to the equipment listed in Annex I to the EC Regulation, directly or indirectly to any person, entity or body in, or for use in Ivory Coast; or
- (g) Article 3(d), prohibiting the participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote transactions referred to in Articles 3(a), (b) or (c),

shall be guilty of an offence and may be arrested.

3. Any person who is knowingly concerned in the transactions set out in article 2 of this Order with intent to evade any prohibition in that article shall be guilty of an offence and may be arrested.

4.—(1) Authorisation for the transactions set out in article 2 shall in the United Kingdom be by way of a licence in writing granted by the Secretary of State.

(2) If, for the purpose of obtaining a licence, any person—

- (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular,

he shall be guilty of an offence; and any licence granted in connection with the application for which the false statement was made or the false document or information furnished shall be void as from the time it was granted.

(3) Any person who, having acted under the authority of a licence granted under this regulation, fails to comply with any of the requirements or conditions to which the licence is subject shall be guilty of an offence, unless—

- (a) the licence had been previously modified by the Secretary of State without that person's consent, and
- (b) the alleged failure to comply would not have been a failure had the licence not been so modified.

5.—(1) A person guilty of an offence under article 2, or 4(2) or (3) of this Order shall be liable—

- (a) on summary conviction to a fine of the prescribed sum or to imprisonment for a term not exceeding 6 months, or to both; or
- (b) on conviction on indictment to a fine of any amount or to imprisonment for a term not exceeding 2 years, or to both.

(2) A person guilty of an offence under article 3 of this Order shall be liable—

- (a) on summary conviction to a fine of the prescribed sum;
- (b) on conviction on indictment to a fine of any amount or to imprisonment for a term not exceeding ten years, or to both.

(3) Section 138 of the Customs and Excise Management Act 1979 (provision as to arrest of persons) shall apply to the arrest of any person for any offences under article 2 or 3 as it applies to the arrest of any person for offences under the customs and excise Acts.

(4) Sections 145 to 148 and 150 to 155 of the Customs and Excise Management Act 1979 (proceedings for offences, mitigation of penalties, proof and other matters) shall apply in relation to offences and penalties under this Order and to proceedings for such offences as they apply in relation to offences and penalties and to proceedings for offences under the customs and excise Acts.

6. In article 11 of the 2003 Order (Aircraft, Vessels, Firearms and ammunition and Goods in Transit), in each of paragraphs (2), (6) and (9)(b) for the reference to 'Iran or Iraq' there shall be substituted a reference to 'Iran ', and in paragraph (11)(e) for the reference to 'Iran, Iraq or North Korea' there shall be substituted a reference to 'Iran or North Korea'.

7. In Schedule 3 to the 2003 Order, entries for Ivory Coast and Iraq shall be added, at the appropriate respective places, to the list of countries and destinations.

In the Trade in Controlled Goods (Embargoed Destinations) Order 2004^(a), Ivory Coast shall be added at the appropriate place to the list of embargoed destinations in the Schedule.

7th February 2005

Nigel Griffiths,
Parliamentary Under Secretary of State for Small Business and Enterprise,
Department of Trade and Industry

^(a) S.I. 2004/318 as amended by S.I. 2004/1049 and 2004/2741.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in respect of Ivory Coast in consequence of Council Regulation (EC) No 174/2005 of 31 January 2005 (“the Regulation”) and the EU Common Position 2004/852/CFSP (OJ L 368, 15.12.2004, p.50) adopted on the 13th December 2004, and taking effect on that date (“the Common Position”). It also makes provision in respect of Iraq as a consequence of the ending of all sanctions, except those related to the sale or supply to Iraq of arms or related material.

The Order provides that breaches of certain provisions of the Regulation are to be criminal offences. Articles 2 and 3 of this Order create offences in respect of the provisions of Article 2 of the Regulation. Article 4 provides for the licensing of transactions set out in article 2 of the Order. Article 5 provides penalties in respect of criminal offences created by the Order and for their enforcement.

Article 7 adds Ivory Coast to the list of countries and destinations in Schedule 3 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (‘the 2003 Order’).

Article 8 adds Ivory Coast to the list of embargoed destinations in the Trade in Controlled Goods (Embargoed Destinations) Order 2004.

Articles 6 and 7 amend article 11 of, and Schedule 3 to, the 2003 Order in relation to Iraq in respect of aircraft, vessels, firearms and ammunition and goods in transit.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

£3.00

© Crown copyright 2005

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s
Stationery Office and Queen’s Printer of Acts of Parliament.

E0176 2/2005 150176T 19585

ISBN 0-11-052243-5



9 780110 522432