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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

**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).

▼B

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 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

- (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. 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

▼B

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;

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- (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. Khawa Panga **Mandro** (*alias* (a) Kawa Panga, (b) Kawa Panga Mandro, (c) Kawa Mandro, (d) Yves Andoul Karim, (e) Chief Kahwa, (f) Kawa). 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. Douglas **Mpano**. Nationality: Congolese. Other information: Based in Goma. 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. Dr Ignace **Murwanashy-Aka** (*alias* Ignace). 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. Laurent **Nkunda** (*alias* (a) Laurent Nkunda Bwatware, (b) Laurent Nkundabatware, (c) Laurent Nkunda Mahoro Batware, (d) General Nkunda). Date of birth: 6.2.1967. place of birth: North Kivu/Rutshuru, democratic Republic of Congo. Nationality: Congolese. Other information: Former RCD-G General. 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.
16. Tous Pour la Paix et le Developpement (*alias* TPD). Address: Goma, North Kivu, Democratic Republic of Congo. Other information: non-governmental organization that provided assistance to RCD-G.



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

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

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

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ESTONIA

Eesti Välisministeerium
 Islandi väljak 1
 15049 Tallinn
 Tel.: + 372 6317 100
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Finantsinspektsioon
 Sakala 4
 15030 Tallinn
 Tel.: + 372 6680 500
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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

Α. 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
 Τ.Κ. 10 563 Αθήνα — Ελλάδα
 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

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

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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

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Department of Foreign Affairs
Iveagh House
79-80 Saint Stephen's Green
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Tel.: + 353 1 478 0822
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Central Bank and Financial Services Authority of Ireland
Financial Markets Department
Dame Street
Dublin 2
Tel.: + 353 1 671 6666
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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
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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
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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 Prokuratūra
Noziedzīgi iegūtu līdzekļu legalizācijas novēršanas dienests
Kalpaka bulvāris 6
Rīga, LV 1801
Tāl. Nr. (371) 70144431
Fakss: (371) 7044804
E-pasts: gen@lrp.gov.lv

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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
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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
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Ministère des Finances
3, rue de la Congrégation
L-1352 Luxembourg
Tél.: (352) 478 2712
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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.
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Ministry of Finance
József nádor tér. 2–4.
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Postbox: 1369 Pf.: 481
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Fax: + 36-1-318-2570, + 36-1-327-2749

Pénzügyminisztérium
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Ministry of Economic Affairs and Transport (in view of Article 4)
Hungarian Trade Licencing Office
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MALTA

Bord ta' Sorveljanza dwar is-Sanzjonijiet
Ministeru ta' l-Affarijiet Barranin
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NETHERLANDS

De minister van Financiën
De Directie Financiële Markten/Afdeling Integriteit
Postbus 20201
NL-2500 EE Den Haag
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AUSTRIA

Oesterreichische Nationalbank
Otto Wagner Platz 3
A-1090 Wien
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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
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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

SLOVENIA

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

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

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Ministry of Defence
Kardeljeva pl. 25
SI-1000 Ljubljana
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SLOVAKIA

Ministerstvo financií Slovenskej republiky
Štefanovičova 5
P.O. BOX 82
817 82 Bratislava
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Ministerstvo zahraničných vecí Slovenskej republiky
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83336 Bratislava
Tel: 00421/2/5978 1111
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FINLAND

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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
113 85 Stockholm
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UNITED KINGDOM

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Financial Systems and International Standards
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Fax. + 44 (0) 20 7270 5430

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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