

In case of discrepancies between the French and the English texts, the French text shall prevail

Luxembourg, 6 May 2004

To all the persons and entities
supervised by the CSSF

CSSF CIRCULAR 04/137

Re: Restrictive measures in relation to Liberia

Dear Sir or Madam,

We are pleased to enclose Council Regulation (EC) No 872/2004 of 29 April 2004 concerning further restrictive measures in relation to Liberia.

We draw your attention in particular to Article 2 of this Regulation, which provides for the freezing of the funds and economic resources of the persons and entities as designated by the Sanctions Committee of the United Nations Security Council. The persons and entities covered by these measures are listed in Annexe I to this Regulation.

Articles 3 and 4 provide for exemptions allowing the competent authorities to release certain frozen funds and economic resources. Furthermore, subject to the provisions of Articles 6 and 7, the Regulation also allows to credit the accounts in accordance with the restrictive measures of Article 2.

Pursuant to Article 8 of the Regulation, we request all the professionals of the financial sector to immediately report any relevant information relating to the enclosed Regulation, to the Commission de Surveillance du Secteur Financier, who will forward it to the Ministry of Foreign Affairs, Division of International Economic Relations, as well as to the Ministry of Finance.

This Regulation came into force on the day of its publication in the Official Journal of the European Union (30 April 2004).

Yours faithfully,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER

Charles KIEFFER
Director

Arthur PHILIPPE
Director

Jean-Nicolas SCHAUS
Director General

Annexe.

COUNCIL REGULATION (EC) No 872/2004
of 29 April 2004
concerning further restrictive measures in relation to Liberia

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 2004/487/CFSP of 29 April 2004 concerning the freezing of funds of the former Liberian President Charles Taylor and those persons and entities associated with him, ⁽¹⁾

Having regard to the proposal from the Commission,

Whereas:

- (1) On 10 February 2004, following the adoption by the United Nations Security Council of UNSCR 1521 (2003), setting out revised measures regarding Liberia to take into account the evolution of the situation in Liberia and in particular the departure of former President Charles Taylor, and the adoption of Council Common Position 2004/137/CFSP of 10 February 2004 concerning restrictive measures against Liberia ⁽²⁾, the Council adopted Regulation 234/2004 imposing restrictive measures in respect of Liberia ⁽³⁾.
- (2) UNSCR 1532 (2004) of 12 March 2004 provides that funds and economic resources owned or controlled by former Liberian President Charles Taylor, Jewell Howard Taylor and Charles Taylor Jr, other immediate family members, his former senior officials and other close allies and associates as designated by the Committee of the Security Council established pursuant to paragraph 21 of UNSCR 1521 (2003) should be frozen.
- (3) The actions and policies of former Liberian President Charles Taylor and other persons, in particular their depletion of Liberian resources and their removal from Liberia and secreting of Liberian funds and property from that country, have undermined Liberia's transition to democracy and the orderly development of its political, administrative, and economic institutions and resources.
- (4) In view of the negative impact on Liberia of the transfer abroad of misappropriated funds and assets, and the use of such misappropriated funds by Charles Taylor and his associates to undermine peace and stability in Liberia and the region, the freezing of the funds of Charles Taylor and his associates is necessary.

- (5) Common Position 2004/487/CFSP provides for the implementation of the freezing of funds and economic resources of the former Liberian President Charles Taylor and his immediate family members, his former senior officials and other close allies and associates.
- (6) These measures fall within the scope of the Treaty and, therefore, in order to avoid any distortion of competition, Community legislation is necessary to implement them as far as the Community is concerned. For the purpose 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 that Treaty.
- (7) Common Position 2004/487/CFSP also provides that certain exemptions from the freezing requirement can be granted for humanitarian purposes or the satisfaction of liens or judgments entered prior to the date of UNSCR 1532 (2004).
- (8) The UN Security Council has expressed its intention to consider whether and how to make available the funds and economic resources frozen pursuant to UNSCR 1532 (2004) to the Government of Liberia, once that Government has established transparent accounting and auditing mechanism to ensure the responsible use of government revenue to benefit directly the people of Liberia.
- (9) 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. 'Sanctions Committee' means: the Committee of the Security Council of the United Nations which was established pursuant to paragraph 21 of UNSCR 1521 (2003);
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;

⁽¹⁾ See page 116 of this Official Journal.

⁽²⁾ OJ L 40, 12.2.2004, p. 35.

⁽³⁾ OJ L 40, 12.2.2004, p. 1.

- (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 resource' 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 owned, or controlled, directly or indirectly, by former Liberian President Charles Taylor, Jewell Howard Taylor and Charles Taylor Jr, and by the following persons and entities, as designated by the Sanctions Committee and listed in Annex I, shall be frozen:

- (a) other immediate family members of former Liberian President Charles Taylor;
- (b) senior officials of the former Taylor regime, and other close allies and associates;
- (c) legal persons, bodies or entities owned or controlled, directly or indirectly by the persons referred to above;
- (d) any natural or legal person acting on behalf or at the direction of the persons referred to above.

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, if the competent authority has determined that the funds or economic resources concerned are:

- (a) necessary for basic expenses, including payments for food-stuffs, 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 it has notified the intention to authorise access to such funds and economic resources to the Sanctions Committee and has not received a negative decision by the Sanctions Committee within two 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, if the competent authority has determined that the funds or economic resources are necessary for extraordinary expenses, and provided that competent authority has notified that determination 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 12 March 2004 or of a judicial, administrative or arbitral judgment 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 judgment, within the limits set by applicable laws and regulations governing the rights of persons having such claims;
- (c) the lien or judgment is not for the benefit of a person, entity or body designated by the Sanctions Committee and mentioned in Annex I;
- (d) recognising the lien or judgement is not contrary to public policy in the Member State concerned.
- (e) the competent authority has notified the lien or judgement to the Sanctions Committee.

Article 5

The relevant competent authority shall inform the competent authorities of the other Member States and the Commission of any authorisation granted under Articles 3 and 4.

Article 6

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).

Article 7

Article 2(2) shall not prevent the crediting of the frozen accounts by financial institutions that receive funds transferred by third parties to the account of the listed person or entity, provided that any such additions to such accounts will also be frozen. The financial institution shall inform the competent authorities about such transactions without delay.

Article 8

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 this Article shall be used only for the purposes for which it was provided or received.

Article 9

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 or entity implementing it, or its directors or employees, unless it is proved that the funds and economic resources were frozen as result of negligence.

Article 10

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 11

The Commission shall be empowered to:

- (a) amend Annex I on the basis of determinations made by either the United Nations Security Council or the Sanctions Committee; and
- (b) amend Annex II on the basis of information supplied by Member States.

Article 12

The 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. The 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 13

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, group or entity which is incorporated or constituted under the law of a Member State;
- (e) to any legal person, group or entity doing business within the Community.

Article 14

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 Luxembourg, 29 April 2004.

For the Council
The President
M. McDOWELL

ANNEX I

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

Name	Date of birth	Place of birth	Others
Charles Ghankay Taylor, Senior, Former President of Liberia	1.9.1947	Liberia	
Jewell Howard Taylor, Wife Former President Taylor	17.1.1963	Liberia	
Charles Taylor Junior Son of Former President Taylor		Liberia	

ANNEX II

List of competent authorities referred to in Articles 3, 4, 5, 7 and 10

BELGIUM

Service Public Fédéral des Finances
Administration de la Trésorerie
30 Avenue des Arts
B-1040 Bruxelles
Fax 00 32 2 233 74 65
E-mail: Quesfinvragen.tf@minfin.fed.be

DENMARK

Erhvervs- og Boligstyrelsen
Dahlerups Pakhus
Langelinie Allé 17
DK — 2100 København Ø
Tel. (45) 35 46 60 00
Fax (45) 35 46 60 01

GERMANY

Concerning freezing of funds:

Deutsche Bundesbank
Servicezentrum Finanzsanktionen
Postfach
D — 80281 München
Tel. (49-89) 2889 3800
Fax (49-89) 350163 3800

Concerning goods:

Bundesamt für Wirtschafts- und Ausfuhrkontrolle (BAFA)
Frankfurter Strasse, 29-35
D-65760 ESCHBORN
Tel. (49-61) 969 08-0
Fax (49-61) 969 08-800

GREECE

A. Freezing of Assets

Ministry of Economy and Finance
General Directory of Economic Policy
Address: 5 Nikis Str., 101 80
Athens.- Greece
Tel.: + 30 210 3332786
Fax: + 30 210 3332810

A. Α. ΔΕΣΜΕΥΣΗ ΚΕΦΑΛΑΙΩΝ

Υπουργείο Οικονομίας και Οικονομικών
Γενική Δ/ση Οικονομικής Πολιτικής
Δ/ση: Νίκης 5, ΑΘΗΝΑ 101 80
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., 105 63 Athens
Tel.: + 30 210 3286401-3
Fax.: + 30 210 3286404

B. ΠΕΡΙΟΡΙΣΜΟΙ ΕΙΣΑΓΩΓΩΝ — ΕΞΑΓΩΓΩΝ

Υπουργείο Οικονομίας και Οικονομικών
Γενική Δ/ση Σχεδιασμού και Διαχείρισης Πολιτικής
Δ/ση: Κορνάρου 1, Τ.Κ. 105 63
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. (00-34) 912 09 95 11
Fax (00-34) 912 09 96 56

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

Ministère de l'économie, des finances et de l'industrie
Direction du Trésor
Service des affaires européennes et internationales
Sous-direction E
139, rue du Bercy
75572 Paris Cedex 12
Tel.: (33) 1 44 87 72 85
Télécopie: (33) 1 53 18 96 37

Ministère des Affaires étrangères
Direction de la coopération européenne
Sous-direction des relations extérieures de la Communauté
Tél.: (33) 1 43 17 44 52
Télécopie: (33) 1 43 17 56 95
Direction générale des affaires politiques et de sécurité
Service de la Politique Etrangère et de Sécurité Commune
Tél.: (33) 1 43 17 45 16
Télécopie: (33) 1 43 17 45 84

IRELAND

Central Bank of Ireland
Financial Markets Department
PO Box 559
Dame Street
Dublin 2
Tel. (353-1) 671 66 66

Department of Foreign Affairs
Bilateral Economic Relations Division
80 St. Stephen's Green
Dublin 2
Tel: (353-1) 408 2153
Fax: (353-1) 408 2003

ITALY

Ministero degli Affari Esteri
Piazzale della Farnesina, 1 — 00194 Roma
D.G.A.S. — Ufficio II
Tel. (39) 06 3691 7334
Fax. (39) 06 3691 5446

Ministero degli Affari Esteri
Piazzale della Farnesina, 1 — 00194 Roma
D.G.A.O. — Ufficio II
Tel. (39) 06 3691 3820
Fax. (39) 06 3691 5161
U.A.M.A.
Tel. (39) 06 3691 3605
Fax. (39) 06 3691 8815

Ministero dell'Economia e delle finanze
Dipartimento del Tesoro
Comitato di Sicurezza Finanziaria
Via XX Settembre, 97 — 00187 Roma
Tel. (39) 06 4761 3942
Fax. (39) 06 4761 3032

Ministero della attivita' produttive
Direzione Generale Politica Commerciale
Viale Boston, 35 — 00144 Roma
Tel. (39) 06 59931
Fax. (39) 06 5964 7531
Firma e funzione: Ferdinando Nelli Feroci, Direttore Generale per l'Integrazione Europea

LUXEMBOURG

Ministère des Affaires Etrangères
Direction des Relations internationales
6, rue de la Congrégation
L-1352 LUXEMBOURG
Tel. (352) 478 23 46
Fax (352) 22 20 48

Ministère des Finances
3, rue de la Congrégation
L — 1352 Luxembourg
Tel. (352) 478 27 12
Fax (352) 47 52 41

NETHERLANDS

Ministerie van Financiën
Directie Financiële Markten, afdeling Integriteit
Postbus 20201
2500 EE Den Haag
Tel 070-342 8997
Fax: 070-342 7984

AUSTRIA

Oesterreichische Nationalbank
Otto Wagner Platz 3
A-1090 Wien
Tel. (01-4042043 1) 404 20-0
Fax (43 1) 404 20 — 73 99

PORTUGAL

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) 218 82 32 40/47
Fax (351) 218 82 32 49

FINLAND

Ulkoasiainministeriö/Utrikesministeriet
PL/PB 176
00161 Helsinki/Helsingfors
Tel. (358) 9 16 05 59 00
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SWEDEN

Finansinspektionen
Box 6750
SE- 113 85 Stockholm
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UNITED KINGDOM

HM Treasury
Financial Systems and International Standards
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London SW1A 2HQ
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Tel. (44-207) 270 5977
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Bank of England
Financial Sanctions Unit
Threadneedle Street
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